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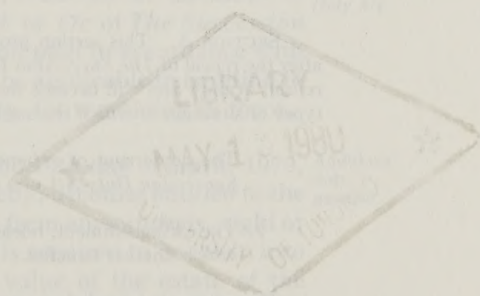
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4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Legislative Assembly

An Act for the making of Additional Provisions for the Levy and Payment of Succession Duty by or in respect of Property or Persons to whom The Succession Duty Act remains Applicable

THE HON. L. MAECK
Minister of Revenue



TORONTO

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EXPLANATORY NOTES

GENERAL. The purpose of the Bill is to provide supplementary provisions for the levying of succession duty to prevent loss of revenue from the post mortem rearrangement of the affairs of the deceased that may now become more attractive with the repeal in 1979 of *The Succession Duty Act* and *The Gift Tax Act, 1972*, and to provide procedures for the payment of deferred duty on interests in expectancy that have not yet fallen into possession or commenced to be enjoyed.

SECTION 1. The purpose of the Act is to set out.

SECTION 2. This section provides for the application of the provisions in the Bill in addition to the provisions now contained in *The Succession Duty Act* and applicable in respect of deaths occurring before April 11th, 1979.

SECTION 3. This section provides that, where certain benefits are taken after the repeal of *The Succession Duty Act*, those benefits will not give rise to a refund of duty and will become dutiable to the person who receives them. The types of situation to which the section applies are:

1. The conferring of a benefit by the exercise after the repeal of *The Succession Duty Act* of a discretionary power.
2. The extinguishment, release or transfer of a right held by any person by which another benefits.

The section is intended to prevent the loss of duty that would result if the benefit of property originally passing to one person who is liable for duty is, after the repeal of *The Succession Duty Act*, given to one who is exempt from duty, such as the spouse of the deceased, so that reversionary interests or prospective benefits are destroyed before the duty levied on them becomes due. Since the repeal of *The Gift Tax Act, 1972* and *The Succession Duty Act*, such rearrangements after the death of the deceased could be made without attracting gift tax and the property could be resettled thereafter on substantially the same provisions as it was held before the rearrangement without giving rise to succession duty on the resettlement.

BILL 62

1980

**An Act for the making of Additional Provisions
for the Levy and Payment of Succession Duty
by or in respect of Property or Persons to
whom The Succession Duty Act remains
Applicable**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The purpose of this Act is to regulate the application of *The Succession Duty Act* in respect of a deceased person, to whom, notwithstanding the repeal of that Act, by reason of death occurring prior to the 11th day of April, 1979, the said Act continues to apply under section 1 of *The Succession Duty Repeal Act, 1979*, in order to prevent loss of revenue following the repeal of *The Succession Duty Act* and to provide a more expeditious procedure for the winding up of deferred liabilities to pay succession duty.

Purpose
of Act
R.S.O. 1970,
c. 449
1979, c. 20

2. Notwithstanding the repeal of *The Succession Duty Act*, the duty levied under that Act on any person or property and before giving effect to any allowance, reduction or discharge of duty authorized by section 7, 17a, 17b or 17c of *The Succession Duty Act* shall be levied, computed and paid in accordance with the provisions of this Act, which shall be applicable in addition to the provisions of *The Succession Duty Act* remaining in force.

This Act
additional
to *The
Succession
Duty Act*

3.—(1) Where, at any time after the 10th day of April, 1979, any person, whether directly or indirectly, becomes entitled to the possession or enjoyment of any benefit from any property, right or thing whatsoever, the value of which is required to be taken into account to determine the aggregate value of the estate of the deceased or that is, after the death of the deceased, derived from or substituted for any property, right or thing, the value of which is so required to be taken into account, and where such entitlement can reasonably be said to be,

Additional
duty
payable

- (a) the result of the exercise after the 10th day of April, 1979 by any person of any discretion of any kind howsoever arising or conferred; or

- (b) the result of the release, surrender, waiver, transfer or extinguishment by any person after the 10th day of April, 1979 of any right or interest to or in any benefit to such person resulting from the death of the deceased or resulting from any order that is made after the 10th day of April, 1979 with respect to any trust made by the deceased in his lifetime or by his will, and pursuant to *The Variation of Trusts Act* or any similar law in force in a jurisdiction other than Ontario,

R.S.O. 1970,
c. 477

duty in respect of the value thereof (determined in accordance with *The Succession Duty Act* and this Act) shall be levied in accordance with subsection 2 or 3 on the property in Ontario out of which such entitlement or any part thereof is provided or payable, and shall be levied on any person in Ontario who benefits from such entitlement, provided that payment of such duty by any person on whom it is levied shall, to the extent that such entitlement of that person is reasonably attributable to property in Ontario on which the same duty is levied, discharge such property from such duty.

R.S.O. 1970,
c. 449

No refund
of duty

(2) Where the effect of the arising or coming into existence of the entitlement described in subsection 1 would, except for this Act, be to reduce, or give rise to a refund of, the duty paid or payable under *The Succession Duty Act*, the refund or reduction is void and shall not be made or given effect to.

Determina-
tion of
duty

(3) Where duty in respect of any interest that is diminished or adversely affected by the arising or coming into existence of the entitlement described in subsection 1 is not, at the time such entitlement arises or comes into existence, paid or to be paid in accordance with subsection 1 or 2 of section 16 of *The Succession Duty Act*, the duty levied by subsection 1 of this section and for which any person is liable shall be determined according to the following rules:

- (a) determine the dutiable value to such person of all property passing to or for his benefit on the death of the deceased and of all dispositions to him that do not come within clause g of subsection 1 of section 5 of *The Succession Duty Act*, as though this section were not applicable and the person was not entitled to any reduction or allowance under section 7 of *The Succession Duty Act*;
- (b) determine the value of the benefit to the person of any entitlement described in subsection 1 in respect of which duty was previously determined under this section or to which section 4 was applied, and as though the person was not entitled to any reduction or allowance under section 7 of *The Succession Duty Act*;

SECTION 4. This section recognizes that the exercise of a discretionary power for the maintenance, advancement or benefit of a person designated by the deceased may often have to be exercised to accomplish a testator's intention to provide for his dependants and others. In such a case, the Minister is authorized, where he is satisfied that the exercise of the power is not for the purpose of reducing duty, to nullify the effect of section 3 of the Bill, and thereby to permit the reduction of duty consequent on the reasonable exercise of that discretion.

SECTION 5. This section deals with duty, the payment of which has been deferred, on interests in expectancy to which the deceased was entitled at his death or which were created by him in his will or in his lifetime. Under *The Succession Duty Act*, such duty would become payable when the interest in expectancy fell into possession or commenced to be enjoyed, and would be based on the value of the interest at that time. The falling into possession of such interests in expectancy may not occur for many years, and in order to expedite the winding-down of the administration of *The Succession Duty Act* after its repeal, the amendment allows an estate to elect before the end of the year to pay the duty on such interests by January 1st, 1981 and to value such interests at their value on April 10th, 1979, the last day on which *The Succession Duty Act* was in force. Where such interests are so dealt with the estate may be closed out, and the beneficiaries of the estate will not be liable to duty on the increase in value that may take place after the repeal of *The Succession Duty Act*. The amendment also provides that the cost of valuing property may be deducted from the value of the property liable to duty.

- (c) determine the value of the benefit to the person of any entitlement described in subsection 1 in respect of which duty has not been previously determined under this section and to which section 4 is not applied;
- (d) determine the duty payable if the aggregate of the values determined in accordance with clauses *a*, *b* and *c* were wholly dutiable to the person; and
- (e) subtract from the duty determined under clause *d* the duty that would be payable if only the values determined in accordance with clauses *a* and *b* were dutiable to the person,

and the amount remaining is the amount of the duty levied by subsection 1, and such amount shall not be reduced by any allowance provided for in section 7 of *The Succession Duty Act* and shall be paid forthwith to the Treasurer, and if not so paid shall bear interest until paid at the rates from time to time prescribed for the purpose of subsection 1 of section 17 of *The Succession Duty Act*.

4. Notwithstanding section 3, where the entitlement referred to in that section arises from the exercise of a discretion exercisable for the maintenance, advancement or benefit of any person or class of person designated in the will of the deceased or in a trust made by the deceased in his lifetime, and where the Minister, in his absolute discretion, is satisfied that the benefit to which any person thereby becomes entitled is, having regard to the financial circumstances of that person and his relationship to the deceased, necessary, reasonable and not for the purpose of reducing duty payable under *The Succession Duty Act*, section 3 shall not apply to such benefits.

Reasonable
maintenance
excepted

R.S.O. 1970.
c. 449

5.—(1) Notwithstanding subsections 3, 4, 5 and 7 of section 16 of *The Succession Duty Act*, the duty mentioned in subsection 3 or 4 of that section may, where an election is made in accordance with subsection 2 of this section, be paid after the time provided by subsection 1 of section 16 of *The Succession Duty Act* and before any interest in expectancy referred to in subsection 3 or 4 of that section falls into possession or commences to be enjoyed, and shall be on the basis of the value of such interest in expectancy ascertained as provided in *The Succession Duty Act* and this Act and determined as at the 10th day of April, 1979, and no deduction shall be made for any duty paid on or with respect to any prior interest, income or annuity arising out of the property in respect of which such interest in expectancy exists, but where such election is made, the duty payable under this subsection is due and payable on the 1st day of January, 1981 and shall, if not then paid, bear interest at the rates from time to time prescribed for the purpose of subsection 1 of section 17 of *The Succession Duty Act*.

Where
duty
deferred

Election,
how made

(2) The election provided for in subsection 1 shall be made by the executors of the deceased on whose death the duty was levied that is elected to be paid in accordance with subsection 1, and the election shall be in writing delivered to the Minister on or before the 31st day of December, 1980, and every such election shall be with respect to all interests in expectancy referred to in subsection 1 that have not, prior to the delivery to the Minister of the election, fallen into possession or commenced to be enjoyed or been the subject of a consent given by the Minister under subsection 6 of section 16 of *The Succession Duty Act*.

R.S.O. 1970,
c. 449

Expenses of
valuation

(3) Where an election under subsection 2 has been made, the value of any property that is required to be valued in accordance with subsection 1 may be reduced by the amount of any costs that are, in the opinion of the Minister, incurred for, and reasonably necessary to, the determination of the value of the property.

Contingencies not
to reduce
value

6. In determining any duty or valuing any property, right or thing or any interest in expectancy for the purposes of this Act or *The Succession Duty Act*, no effect shall be given to, or any reduction in value allowed for, the possible occurrence of any contingency that has not, at the date of death of the deceased, occurred, except to the extent that the happening of such contingency can be actuarially predicted according to such rule, method and standard of mortality and of value and at such rate of interest as is prescribed for the purpose of subsection 4 of section 3 of *The Succession Duty Act*, or to the extent that, where an election under subsection 2 of section 5 of this Act has been made, such contingency has occurred on or before the 10th day of April, 1979.

Interpre-
tation

7.—(1) Words and expressions in this Act that are defined in *The Succession Duty Act* have the same meaning in this Act that they have in *The Succession Duty Act*, unless the context of this Act otherwise requires.

Idem

(2) A reference in this Act to *The Succession Duty Act* or to any provision thereof includes a reference to any predecessor Act or provision of similar import that remains applicable in respect of a deceased person and the determination of duty levied in respect of his death.

Procedures

(3) The provisions of *The Succession Duty Act* apply, with necessary modifications, to the administration and enforcement of the provisions of this Act, to the collection of any duty levied by this Act, and to an appeal to the Supreme Court of any question relating to the construction of this Act or the duty levied by this Act.

Regulations

8.—(1) The Lieutenant Governor in Council may make regulations,

SECTION 6. This section provides that the determination or valuation of an interest shall not be reduced by the possibility of the occurrence of a contingent event in the future, unless, and then only to the extent that, such contingent event can be actuarially predicted according to the standards prescribed under *The Succession Duty Act* or, in the case of a valuation under section 5, has occurred by April 10th, 1979.

SECTION 7. This section provides for the application to the new Act of definitions and procedures applicable under *The Succession Duty Act*.

SECTION 8. This section provides for the making of regulations necessary to implement the Act.

- (a) defining any expression in this Act that is not defined in *The Succession Duty Act*; R.S.O. 1970.
c. 449
- (b) authorizing or requiring the Deputy Minister or any other officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;
- (c) providing for the application of this Act to particular cases that are determined to come within the spirit and intent of this Act; or
- (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) A regulation is where it so provides effective with respect to Idem
any period of time prior to the coming into force of this Act and not
earlier than the 11th day of April, 1979.

9. This Act comes into force on the day it receives Royal Assent Commence-
ment
and applies in respect of every deceased person whose death
occurred before the 11th day of April, 1979 and to any event or
transaction occurring before or after this Act comes into force.

10. The short title of this Act is *The Succession Duty Act* Short title
Supplementary Provisions Act, 1980.

An Act for the making of Additional Provisions for the Levy and Payment of Succession Duty by or in respect of Property or Persons to whom The Succession Duty Act remains Applicable

1st Reading

April 29th, 1980

2nd Reading

3rd Reading

THE HON. L. MAECK
Minister of Revenue

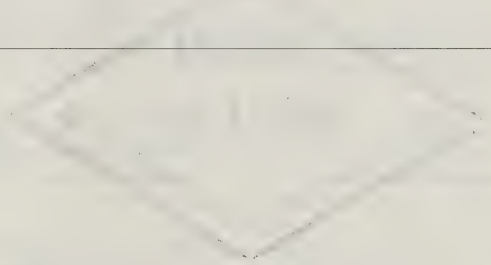
(Government Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Original Bill

An Act for the making of Additional Provisions for the Levy
and Payment of Succession Duty by or in respect of Property or
Persons to whom The Succession Duty Act remains Applicable

THE HON. L. MAECK
Minister of Revenue



(Reprinted as amended by the Committee of the Whole House)

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

GENERAL. The purpose of the Bill is to provide supplementary provisions for the levying of succession duty to prevent loss of revenue from the post mortem rearrangement of the affairs of the deceased that may now become more attractive with the repeal in 1979 of *The Succession Duty Act* and *The Gift Tax Act, 1972*, and to provide procedures for the payment of deferred duty on interests in expectancy that have not yet fallen into possession or commenced to be enjoyed.

SECTION 1. The purpose of the Act is to set out.

SECTION 2. This section provides for the application of the provisions in the Bill in addition to the provisions now contained in *The Succession Duty Act* and applicable in respect of deaths occurring before April 11th, 1979.

SECTION 3. This section provides that, where certain benefits are taken after the repeal of *The Succession Duty Act*, those benefits will not give rise to a refund of duty and will become dutiable to the person who receives them. The types of situation to which the section applies are:

1. The conferring of a benefit by the exercise after the repeal of *The Succession Duty Act* of a discretionary power.
2. The extinguishment, release or transfer of a right held by any person by which another benefits.

The section is intended to prevent the loss of duty that would result if the benefit of property originally passing to one person who is liable for duty is, after the repeal of *The Succession Duty Act*, given to one who is exempt from duty, such as the spouse of the deceased, so that reversionary interests or prospective benefits are destroyed before the duty levied on them becomes due. Since the repeal of *The Gift Tax Act, 1972* and *The Succession Duty Act*, such rearrangements after the death of the deceased could be made without attracting gift tax and the property could be resettled thereafter on substantially the same provisions as it was held before the rearrangement without giving rise to succession duty on the resettlement.

BILL 62

1980

**An Act for the making of Additional Provisions
for the Levy and Payment of Succession Duty
by or in respect of Property or Persons to
whom The Succession Duty Act remains
Applicable**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The purpose of this Act is to regulate the application of *The Succession Duty Act* in respect of a deceased person, to whom, notwithstanding the repeal of that Act, by reason of death occurring prior to the 11th day of April, 1979, the said Act continues to apply under section 1 of *The Succession Duty Repeal Act, 1979*, in order to prevent loss of revenue following the repeal of *The Succession Duty Act* and to provide a more expeditious procedure for the winding up of deferred liabilities to pay succession duty.

Purpose
of Act
R.S.O. 1970,
c. 449
1979, c. 20

2. Notwithstanding the repeal of *The Succession Duty Act*, the duty levied under that Act on any person or property and before giving effect to any allowance, reduction or discharge of duty authorized by section 7, 17a, 17b or 17c of *The Succession Duty Act* shall be levied, computed and paid in accordance with the provisions of this Act, which shall be applicable in addition to the provisions of *The Succession Duty Act* remaining in force.

This Act
additional
to *The
Succession
Duty Act*

3.—(1) Where, at any time after the 10th day of April, 1979, any person, whether directly or indirectly, becomes entitled to the possession or enjoyment of any benefit from any property, right or thing whatsoever, the value of which is required to be taken into account to determine the aggregate value of the estate of the deceased or that is, after the death of the deceased, derived from or substituted for any property, right or thing, the value of which is so required to be taken into account, and where such entitlement can reasonably be said to be,

Additional
duty
payable

- (a) the result of the exercise after the 10th day of April, 1979 by any person of any discretion of any kind howsoever arising or conferred; or

- (b) the result of the release, surrender, waiver, transfer or extinguishment by any person after the 10th day of April, 1979 of any right or interest to or in any benefit to such person resulting from the death of the deceased or resulting from any order that is made after the 10th day of April, 1979 with respect to any trust made by the deceased in his lifetime or by his will, and pursuant to *The Variation of Trusts Act* or any similar law in force in a jurisdiction other than Ontario,

R.S.O. 1970,
c. 477

duty in respect of the value thereof (determined in accordance with *The Succession Duty Act* and this Act) shall be levied in accordance with subsection 2 or 3 on the property in Ontario out of which such entitlement or any part thereof is provided or payable, and shall be levied on any person in Ontario who benefits from such entitlement, provided that payment of such duty by any person on whom it is levied shall, to the extent that such entitlement of that person is reasonably attributable to property in Ontario on which the same duty is levied, discharge such property from such duty.

R.S.O. 1970,
c. 449

No refund
of duty



(2) Where the effect of the arising or coming into existence of the entitlement described in subsection 1 would, except for this Act, be to reduce, or give rise to a refund of, the duty paid or payable under *The Succession Duty Act* before the arising or coming into existence of such entitlement, the refund or reduction is void and shall not be made or given effect to.

Determina-
tion of
duty

(3) Where duty in respect of any interest that is diminished or adversely affected by the arising or coming into existence of the entitlement described in subsection 1 is not, at the time such entitlement arises or comes into existence, paid or to be paid in accordance with subsection 1 or 2 of section 16 of *The Succession Duty Act*, the duty levied by subsection 1 of this section and for which any person is liable shall be determined according to the following rules:

- (a) determine the dutiable value to such person of all property passing to or for his benefit on the death of the deceased and of all dispositions to him that do not come within clause *g* of subsection 1 of section 5 of *The Succession Duty Act*, as though this section were not applicable and the person was not entitled to any reduction or allowance under section 7 of *The Succession Duty Act*;
- (b) determine the value of the benefit to the person of any entitlement described in subsection 1 in respect of which duty was previously determined under this section or to which section 4 was applied, and as though the person was not entitled to any reduction or allowance under section 7 of *The Succession Duty Act*;

SECTION 4.—Subsection 1. This subsection recognizes that the exercise of a discretionary power for the maintenance, advancement or benefit of a person designated by the deceased may often have to be exercised to accomplish a testator's intention to provide for his dependants and others. In such a case, the Minister is authorized, where he is satisfied that the exercise of the power is not for the purpose of reducing duty, to nullify the effect of section 3 of the Bill, and thereby to permit the reduction of duty consequent on the reasonable exercise of that discretion.

 Subsection 2. In similar fashion, where the Minister is satisfied that benefits conferred by a surrender, release, waiver or transfer are for the purpose of providing for a dependant and not for the purpose of reducing duty, section 3 of the Bill will not apply to the surrender, etc. 

SECTION 5. This section deals with duty, the payment of which has been deferred, on interests in expectancy to which the deceased was entitled at his death or which were created by him in his will or in his lifetime. Under *The Succession Duty Act*, such duty would become payable when the interest in expectancy fell into possession or commenced to be enjoyed, and would be based on the value of the interest at that time. The falling into possession of such interests in expectancy may not occur for many years, and in order to expedite the winding-down of the administration of *The Succession Duty Act* after its repeal, the amendment allows an estate to elect before the end of the year to pay the duty on such interests by January 1st, 1981 and to value such interests at their value on April 10th, 1979, the last day on which *The Succession Duty Act* was in force. Where such interests are so dealt with the estate may be closed out, and the beneficiaries of the estate will not be liable to duty on the increase in value that may take place after the repeal of *The Succession Duty Act*. The amendment also provides that the cost of valuing property may be deducted from the value of the property liable to duty.

- (c) determine the value of the benefit to the person of any entitlement described in subsection 1 in respect of which duty has not been previously determined under this section and to which section 4 is not applied;
- (d) determine the duty payable if the aggregate of the values determined in accordance with clauses *a*, *b* and *c* were wholly dutiable to the person; and
- (e) subtract from the duty determined under clause *d* the duty that would be payable if only the values determined in accordance with clauses *a* and *b* were dutiable to the person,

and the amount remaining is the amount of the duty levied by subsection 1, and such amount shall not be reduced by any allowance provided for in section 7 of *The Succession Duty Act* and shall be paid forthwith to the Treasurer, and if not so paid shall bear interest until paid at the rates from time to time prescribed for the purpose of subsection 1 of section 17 of *The Succession Duty Act*.

R.S.O. 1970,
c. 449

4.—(1) Notwithstanding section 3, where the entitlement referred to in that section arises from the exercise of a discretion exercisable for the maintenance, advancement or benefit of any person class of person designated in the will of the deceased or in a trust made by the deceased in his lifetime, and where the Minister, in his absolute discretion, is satisfied that the benefit to which any person thereby becomes entitled is, having regard to the financial circumstances of that person and his relationship to the deceased, necessary, reasonable and not for the purpose of reducing duty payable under *The Succession Duty Act*, section 3 shall not apply to such benefits.

Reasonable
maintenance
excepted

(2) Notwithstanding section 3, where the entitlement referred to in that section arises from the release, surrender, waiver, transfer or extinguishment of any right or interest, and where the Minister, in his absolute discretion, is satisfied that such release, surrender, waiver, transfer or extinguishment is not for the purpose of reducing duty payable under *The Succession Duty Act* and is for the purpose of providing for a dependant of the deceased, of effecting the compromise or settlement of a dispute in the administration of the estate of the deceased, of carrying out the true intent and purpose of the deceased expressed in his will, or of facilitating the administration of the estate of the deceased, section 3 shall not apply to such release, surrender, waiver, transfer or extinguishment.

Extinguish-
ment or
transfer of
interest

5.—(1) Notwithstanding subsections 3, 4, 5 and 7 of section 16 of *The Succession Duty Act*, the duty mentioned in subsection 3 or 4 of that section may, where an election is made in accordance

Where
duty
deferred

with subsection 2 of this section, be paid after the time provided by subsection 1 of section 16 of *The Succession Duty Act* and before any interest in expectancy referred to in subsection 3 or 4 of that section falls into possession or commences to be enjoyed, and shall be on the basis of the value of such interest in expectancy ascertained as provided in *The Succession Duty Act* and this Act and determined as at the 10th day of April, 1979, and no deduction shall be made for any duty paid on or with respect to any prior interest, income or annuity arising out of the property in respect of which such interest in expectancy exists, but where such election is made, the duty payable under this subsection is due and payable on the 1st day of January, 1981 and shall, if not then paid, bear interest at the rates from time to time prescribed for the purpose of subsection 1 of section 17 of *The Succession Duty Act*.

Election,
how made

(2) The election provided for in subsection 1 shall be made by the executors of the deceased on whose death the duty was levied that is elected to be paid in accordance with subsection 1, and the election shall be in writing delivered to the Minister on or before the 31st day of December, 1980, and every such election shall be with respect to all interests in expectancy referred to in subsection 1 that have not, prior to the delivery to the Minister of the election, fallen into possession or commenced to be enjoyed or been the subject of a consent given by the Minister under subsection 6 of section 16 of *The Succession Duty Act*.

R.S.O. 1970,
c. 449

Expenses of
valuation

(3) Where an election under subsection 2 has been made, the value of any property that is required to be valued in accordance with subsection 1 may be reduced by the amount of any costs that are, in the opinion of the Minister, incurred for, and reasonably necessary to, the determination of the value of the property.

Contingencies not
to reduce
value

6. In determining any duty or valuing any property, right or thing or any interest in expectancy for the purposes of this Act or *The Succession Duty Act*, no effect shall be given to, or any reduction in value allowed for, the possible occurrence of any contingency that has not, at the date of death of the deceased, occurred, except to the extent that the happening of such contingency can be actuarially predicted according to such rule, method and standard of mortality and of value and at such rate of interest as is prescribed for the purpose of subsection 4 of section 3 of *The Succession Duty Act*, or to the extent that, where an election under subsection 2 of section 5 of this Act has been made, such contingency has occurred on or before the 10th day of April, 1979.

Interpre-
tation

7.—(1) Words and expressions in this Act that are defined in *The Succession Duty Act* have the same meaning in this Act that they have in *The Succession Duty Act*, unless the context of this Act otherwise requires.

SECTION 6. This section provides that the determination or valuation of an interest shall not be reduced by the possibility of the occurrence of a contingent event in the future, unless, and then only to the extent that, such contingent event can be actuarially predicted according to the standards prescribed under *The Succession Duty Act* or, in the case of a valuation under section 5, has occurred by April 10th, 1979.

SECTION 7. This section provides for the application to the new Act of definitions and procedures applicable under *The Succession Duty Act*.

SECTION 8. This section provides for the making of regulations necessary to implement the Act.

(2) A reference in this Act to *The Succession Duty Act* or to any provision thereof includes a reference to any predecessor Act or provision of similar import that remains applicable in respect of a deceased person and the determination of duty levied in respect of his death. Idem
R.S.O. 1970,
c. 449

(3) The provisions of *The Succession Duty Act* apply, with necessary modifications, to the administration and enforcement of the provisions of this Act, to the collection of any duty levied by this Act, and to an appeal to the Supreme Court of any question relating to the construction of this Act or the duty levied by this Act. Procedures

8.—(1) The Lieutenant Governor in Council may make regulations, Regulations

- (a) defining any expression in this Act that is not defined in *The Succession Duty Act*;
- (b) authorizing or requiring the Deputy Minister or any other officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;
- (c) providing for the application of this Act to particular cases that are determined to come within the spirit and intent of this Act; or
- (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) A regulation is where it so provides effective with respect to any period of time prior to the coming into force of this Act and not earlier than the 11th day of April, 1979. Idem

9. This Act comes into force on the day it receives Royal Assent and applies in respect of every deceased person whose death occurred before the 11th day of April, 1979 and to any event or transaction occurring before or after this Act comes into force, provided that no duty under this Act shall be payable in accordance with subsection 3 of section 3 where it is established by evidence satisfactory to the Minister that the entitlement described in subsection 1 of section 3 arose or came into existence prior to the 29th day of April, 1980. Commence-
ment

10. The short title of this Act is *The Succession Duty Act Supplementary Provisions Act, 1980.* Short title

An Act for the making of Additional Provisions for the Levy and Payment of Succession Duty by or in respect of Property or Persons to whom The Succession Duty Act remains Applicable

1st Reading

April 29th, 1980

2nd Reading

May 27th, 1980

3rd Reading

THE HON. L. MAECK
Minister of Revenue

(Reprinted as amended by the
Committee of the Whole House)

BILL 62

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Legislative Assembly

**An Act for the making of Additional Provisions for the Levy
and Payment of Succession Duty by or in respect of Property or
Persons to whom The Succession Duty Act remains Applicable**

THE HON. L. MAECK
Minister of Revenue

TORONTO

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- (b) the result of the release, surrender, waiver, transfer or extinguishment by any person after the 10th day of April, 1979 of any right or interest to or in any benefit to such person resulting from the death of the deceased or resulting from any order that is made after the 10th day of April, 1979 with respect to any trust made by the deceased in his lifetime or by his will, and pursuant to *The Variation of Trusts Act* or any similar law in force in a jurisdiction other than Ontario,

R.S.O. 1970,
c. 477

duty in respect of the value thereof (determined in accordance with *The Succession Duty Act* and this Act) shall be levied in accordance with subsection 2 or 3 on the property in Ontario out of which such entitlement or any part thereof is provided or payable, and shall be levied on any person in Ontario who benefits from such entitlement, provided that payment of such duty by any person on whom it is levied shall, to the extent that such entitlement of that person is reasonably attributable to property in Ontario on which the same duty is levied, discharge such property from such duty.

R.S.O. 1970,
c. 449

No refund
of duty

(2) Where the effect of the arising or coming into existence of the entitlement described in subsection 1 would, except for this Act, be to reduce, or give rise to a refund of, the duty paid or payable under *The Succession Duty Act* before the arising or coming into existence of such entitlement, the refund or reduction is void and shall not be made or given effect to.

Determina-
tion of
duty

(3) Where duty in respect of any interest that is diminished or adversely affected by the arising or coming into existence of the entitlement described in subsection 1 is not, at the time such entitlement arises or comes into existence, paid or to be paid in accordance with subsection 1 or 2 of section 16 of *The Succession Duty Act*, the duty levied by subsection 1 of this section and for which any person is liable shall be determined according to the following rules:

- (a) determine the dutiable value to such person of all property passing to or for his benefit on the death of the deceased and of all dispositions to him that do not come within clause g of subsection 1 of section 5 of *The Succession Duty Act*, as though this section were not applicable and the person was not entitled to any reduction or allowance under section 7 of *The Succession Duty Act*;
- (b) determine the value of the benefit to the person of any entitlement described in subsection 1 in respect of which duty was previously determined under this section or to which section 4 was applied, and as though the person was not entitled to any reduction or allowance under section 7 of *The Succession Duty Act*;

- (c) determine the value of the benefit to the person of any entitlement described in subsection 1 in respect of which duty has not been previously determined under this section and to which section 4 is not applied;
- (d) determine the duty payable if the aggregate of the values determined in accordance with clauses *a*, *b* and *c* were wholly dutiable to the person; and
- (e) subtract from the duty determined under clause *d* the duty that would be payable if only the values determined in accordance with clauses *a* and *b* were dutiable to the person,

and the amount remaining is the amount of the duty levied by subsection 1, and such amount shall not be reduced by any allowance provided for in section 7 of *The Succession Duty Act* and shall be paid forthwith to the Treasurer, and if not so paid shall bear interest until paid at the rates from time to time prescribed for the purpose of subsection 1 of section 17 of *The Succession Duty Act*.

R.S.O. 1970,
c. 449

4.—(1) Notwithstanding section 3, where the entitlement referred to in that section arises from the exercise of a discretion exercisable for the maintenance, advancement or benefit of any person class of person designated in the will of the deceased or in a trust made by the deceased in his lifetime, and where the Minister, in his absolute discretion, is satisfied that the benefit to which any person thereby becomes entitled is, having regard to the financial circumstances of that person and his relationship to the deceased, necessary, reasonable and not for the purpose of reducing duty payable under *The Succession Duty Act*, section 3 shall not apply to such benefits.

Reasonable
maintenance
excepted

(2) Notwithstanding section 3, where the entitlement referred to in that section arises from the release, surrender, waiver, transfer or extinguishment of any right or interest, and where the Minister, in his absolute discretion, is satisfied that such release, surrender, waiver, transfer or extinguishment is not for the purpose of reducing duty payable under *The Succession Duty Act* and is for the purpose of providing for a dependant of the deceased, of effecting the compromise or settlement of a dispute in the administration of the estate of the deceased, of carrying out the true intent and purpose of the deceased expressed in his will, or of facilitating the administration of the estate of the deceased, section 3 shall not apply to such release, surrender, waiver, transfer or extinguishment.

Extinguish-
ment or
transfer of
interest

5.—(1) Notwithstanding subsections 3, 4, 5 and 7 of section 16 of *The Succession Duty Act*, the duty mentioned in subsection 3 or 4 of that section may, where an election is made in accordance

Where
duty
deferred

with subsection 2 of this section, be paid after the time provided by subsection 1 of section 16 of *The Succession Duty Act* and before any interest in expectancy referred to in subsection 3 or 4 of that section falls into possession or commences to be enjoyed, and shall be on the basis of the value of such interest in expectancy ascertained as provided in *The Succession Duty Act* and this Act and determined as at the 10th day of April, 1979, and no deduction shall be made for any duty paid on or with respect to any prior interest, income or annuity arising out of the property in respect of which such interest in expectancy exists, but where such election is made, the duty payable under this subsection is due and payable on the 1st day of January, 1981 and shall, if not then paid, bear interest at the rates from time to time prescribed for the purpose of subsection 1 of section 17 of *The Succession Duty Act*.

Election,
how made

(2) The election provided for in subsection 1 shall be made by the executors of the deceased on whose death the duty was levied that is elected to be paid in accordance with subsection 1, and the election shall be in writing delivered to the Minister on or before the 31st day of December, 1980, and every such election shall be with respect to all interests in expectancy referred to in subsection 1 that have not, prior to the delivery to the Minister of the election, fallen into possession or commenced to be enjoyed or been the subject of a consent given by the Minister under subsection 6 of section 16 of *The Succession Duty Act*.

R.S.O. 1970,
c. 449

Expenses of
valuation

(3) Where an election under subsection 2 has been made, the value of any property that is required to be valued in accordance with subsection 1 may be reduced by the amount of any costs that are, in the opinion of the Minister, incurred for, and reasonably necessary to, the determination of the value of the property.

Contingencies not
to reduce
value

6. In determining any duty or valuing any property, right or thing or any interest in expectancy for the purposes of this Act or *The Succession Duty Act*, no effect shall be given to, or any reduction in value allowed for, the possible occurrence of any contingency that has not, at the date of death of the deceased, occurred, except to the extent that the happening of such contingency can be actuarially predicted according to such rule, method and standard of mortality and of value and at such rate of interest as is prescribed for the purpose of subsection 4 of section 3 of *The Succession Duty Act*, or to the extent that, where an election under subsection 2 of section 5 of this Act has been made, such contingency has occurred on or before the 10th day of April, 1979.

Interpre-
tation

7.—(1) Words and expressions in this Act that are defined in *The Succession Duty Act* have the same meaning in this Act that they have in *The Succession Duty Act*, unless the context of this Act otherwise requires.

(2) A reference in this Act to *The Succession Duty Act* or to any provision thereof includes a reference to any predecessor Act or provision of similar import that remains applicable in respect of a deceased person and the determination of duty levied in respect of his death. Idem
R.S.O. 1970,
c. 449

(3) The provisions of *The Succession Duty Act* apply, with necessary modifications, to the administration and enforcement of the provisions of this Act, to the collection of any duty levied by this Act, and to an appeal to the Supreme Court of any question relating to the construction of this Act or the duty levied by this Act. Procedures

8.—(1) The Lieutenant Governor in Council may make regulations, Regulations

- (a) defining any expression in this Act that is not defined in *The Succession Duty Act*;
- (b) authorizing or requiring the Deputy Minister or any other officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;
- (c) providing for the application of this Act to particular cases that are determined to come within the spirit and intent of this Act; or
- (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) A regulation is where it so provides effective with respect to any period of time prior to the coming into force of this Act and not earlier than the 11th day of April, 1979. Idem

9. This Act comes into force on the day it receives Royal Assent and applies in respect of every deceased person whose death occurred before the 11th day of April, 1979 and to any event or transaction occurring before or after this Act comes into force, provided that no duty under this Act shall be payable in accordance with subsection 3 of section 3 where it is established by evidence satisfactory to the Minister that the entitlement described in subsection 1 of section 3 arose or came into existence prior to the 29th day of April, 1980. Commence-
ment

10. The short title of this Act is *The Succession Duty Act* Short title
Supplementary Provisions Act, 1980.

An Act for the making of Additional Provisions for the Levy and Payment of Succession Duty by or in respect of Property or Persons to whom The Succession Duty Act remains Applicable

1st Reading

April 29th, 1980

2nd Reading

May 27th, 1980

3rd Reading

June 3rd, 1980

THE HON. L. MAECK
Minister of Revenue

4TH SESSION, 31ST LEGISLATURE, ²ONTARIO
29 ELIZABETH II, 1980

Legislative Assembly

**An Act to amend The Niagara
Escarpment Planning and Development Act, 1973**

MR. SWART

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to alter the procedures relating to the preparation and implementation of a Niagara Escarpment Plan for the Niagara Escarpment Planning Area. The Bill also contains amendments to the development control provisions contained in the Act.

One major effect of the Bill will be to remove development permit appeals from the Minister of Housing and direct them to the Ontario Municipal Board and through it to the Cabinet.

A second major effect of the Bill will be to cause the Plan covering the Niagara Escarpment Planning Area to be incorporated into and composed of the official plans of the regional and county municipalities that have jurisdiction in the Planning Area.

The amendments require the Niagara Escarpment Commission to propose the Plan in the form of official plans and amendments to existing official plans for municipalities in the Niagara Escarpment Planning Area. The proposed plans and plan amendments would be approved in the same manner as an official plan and official plan amendments are approved under *The Planning Act*. The Niagara Escarpment Plan is composed of the official plans and official plan amendments that result upon completion of the approval process.

Further amendments to the Bill provide that any area covered by official plans or plan amendments included as part of the Niagara Escarpment Plan is released from development control. Where development control is in effect, procedures relating to the issuance of development permits have been altered to provide for appeals to the Ontario Municipal Board.

Other amendments require the Commission to monitor all municipal planning activity in the Niagara Escarpment Planning Area and permit the Commission to initiate further official plan amendments as well as to intervene in proceedings before the Ontario Municipal Board concerning lands in the Planning Area.

BILL 63

1980

An Act to amend The Niagara Escarpment Planning and Development Act, 1973

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *b* of section 1 of *The Niagara Escarpment Planning and Development Act, 1973*, being chapter 52, is repealed. s. 1(b),
repealed

(2) The said section 1, as amended by the Statutes of Ontario, 1975, chapter 68, section 1 and 1976, chapter 35, section 1, is further amended by adding thereto the following clauses: s. 1,
amended

(da) “Municipal Board” means the Ontario Municipal Board;

(fa) “official plan” means an official plan approved by the Minister or the Ontario Municipal Board under *The Planning Act*.

R.S.O. 1970,
c. 349

2.—(1) Subsections 2 to 4 of section 10 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 52, section 2, are repealed and the following substituted therefor: s. 10 (2-4),
re-enacted

(2) After giving consideration to the comments received, the Commission shall revise and prepare the proposed Plan in the form of amendments for each official plan in force in the Niagara Escarpment Planning Area together with a proposed official plan for each county or regional municipality that has not adopted an official plan covering area under its jurisdiction that is included in the Niagara Escarpment Planning Area, and, upon completion of the proposed Plan in this form, the Commission shall submit the proposed Plan to the Minister. Proposed
Plan in
form of
official
plan and
official
plan
amendments

Approval
by
Minister

(3) The Minister shall consider the proposed Plan as a whole and may make such modifications as to him appear necessary to achieve the purpose of this Act and the objectives of the Niagara Escarpment Plan, and the Minister shall consider and modify each proposed official plan, if any, and each set of amendments to an official plan accordingly and the provisions of *The Planning Act* apply to the approval of each proposed official plan and each set of amendments as if the plan or amendments had been adopted by the council of the municipality affected thereby under that Act.

R.S.O. 1970,
c. 349

Idem

(4) The official plans, if any, and amendments to official plans that are approved by the Minister or the Municipal Board as a result of proposals contained in the proposed Plan together constitute the Plan for the Niagara Escarpment Planning Area.

s. 10 (5-11),
repealed

(2) Subsection 5 as amended by the Statutes of Ontario, 1974, chapter 52, section 2, subsections 6 to 10 as re-enacted by the Statutes of Ontario, 1974, chapter 52, section 2 and subsection 11 of the said section 10 are repealed.

s. 11,
re-enacted

3. Section 11 of the said Act is repealed and the following substituted therefor:

Duties of
Commission

11.—(1) After the proposed Plan for the Niagara Escarpment Planning Area has been prepared and submitted to the Minister, it is the duty of the Commission to,

- (a) monitor all municipal planning activities affecting the Niagara Escarpment and all other land in the Niagara Escarpment Planning Area; and
- (b) advise the Minister and any municipality whose jurisdiction includes any part of the Niagara Escarpment Planning Area as to the proper policies and procedures for implementing the proposed Plan.

Interventions
by
Commission
R.S.O. 1970,
c. 349

(2) In any proceeding under *The Planning Act* in respect of lands in the Niagara Escarpment Planning Area, the Commission is a proper person to request a municipality to initiate an amendment to an official plan or to request the Minister to refer a proposed amendment to the Municipal Board under subsection 3 of section 17 of that Act or to appeal any decision made under that Act affecting lands in the Area and the Commission is a proper party to make representations before the Municipal Board in any proceedings in respect of such land before the Board.

Report

(3) The Commission shall report annually upon the affairs of the Commission to the Minister who shall submit the

report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

4. Sections 12, 13, 14 and 15 of the said Act are repealed. ss. 12-15,
repealed

5. Section 16 of the said Act is repealed and the following substituted therefor: s. 16,
re-enacted

16. Where an official plan or amendments to an official plan constituting part of the Niagara Escarpment Plan is in effect in a municipality or any part thereof and the municipality has not passed a zoning by-law implementing the plan or the amendments to the plan, the council of the municipality, upon being notified in writing by the Minister of that fact, shall, within such time as is specified in the notice, prepare and pass a zoning by-law or by-laws that conform to the official plan or amendments and submit to the Municipal Board the zoning by-law or by-laws. Minister
may require
passage of
zoning
by-law

6. Sections 17, 19, 20 and 21 of the said Act are repealed. ss. 17, 19-21,
repealed

7. Section 22 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 52, section 3, is amended by adding thereto the following subsection: s. 22.
amended

(2) Upon the approval by the Minister or the Municipal Board of an official plan or amendments to an official plan for a municipality as a result of proposals contained in the proposed Plan, any land within the municipality that has been designated as an area of development control is thereby released from development control. Release
from
development
control

8. Subsections 5 to 12 of section 24 of the said Act are repealed and the following substituted therefor: s. 24 (5, 6),
re-enacted;
s. 24 (7-12),
repealed

(5) The Commission, or a county or regional municipality or city to whom the Minister has delegated his authority under subsection 1, shall by regular or registered mail cause a copy of the decision made by it on any application for a development permit to be mailed to the Minister, to the applicant for the permit, to all assessed owners of land lying within 400 feet of the land that is the subject of the application, to the clerk of every municipality in which the land is situated and to any person who has requested to receive a copy of the decision or of any decision on an application for a development permit, and every copy of such decision shall include a notice specifying that any person, within thirty days of the mailing of it, may appeal in writing to the Municipal Board against the decision. Notification
of decision

Appeal to
O.M.B.

(6) Where the Municipal Board receives one or more notices of appeal under subsection 5, the Board shall hear the appeal, and upon completion of the hearing, the Board may confirm the decision or vary the decision and may order that the development permit be issued or not issued or issued subject to such terms and conditions as the Board considers desirable.

s. 25.
re-enacted

- 9.** Section 25 of the said Act, as amended by the Statutes of Ontario, 1978, chapter 87, section 58, is repealed and the following substituted therefor:

Minister's
power of
decision

25.—(1) Where the Minister has not delegated his authority under section 24 and he receives an application for a development permit, the Minister shall consider the merits of the application and may make a decision to issue the development permit or to refuse to issue the permit or to issue the permit subject to such terms and conditions as he considers desirable.

Notification
of decision

(2) The Minister shall, by regular or registered mail, cause a copy of the decision made by him on any application for a development permit to be mailed to the applicant for the permit, to all assessed owners of land lying within 400 feet of the land that is the subject of the application, to the clerk of every municipality in which the land is situated and to any person who has requested to receive a copy of the decision or of any decision on an application for a development permit, and every copy of such decision shall include a notice specifying that any person, within thirty days of the mailing of it, may appeal in writing to the Municipal Board against the decision.

Appeal to
O.M.B.

(3) Where the Municipal Board receives one or more notices of appeal under subsection 2, the Board shall hear the appeal, and upon completion of the hearing, the Board may confirm the decision or vary the decision and may order that the development permit be issued or not issued or issued subject to such terms and conditions as the Board considers desirable.

Commence-
ment

- 10.** This Act comes into force on the day it receives Royal Assent.

Short title

- 11.** The short title of this Act is *The Niagara Escarpment Planning and Development Amendment Act, 1980*.

An Act to amend The Niagara
Escarpment Planning and Development
Act, 1973

1st Reading

April 29th, 1980

2nd Reading

3rd Reading

MR. SWART

(Private Member's Bill)

2
F
BILL 64

Private Member's Bill

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980 *29 Feb 1980*

**An Act to amend The Niagara Escarpment
Planning and Development Act, 1973**

MR. SWART

TORONTO

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EXPLANATORY NOTE

The purpose of the Bill is to limit the types of development that may be permitted or exempted under the Act until the Niagara Escarpment Plan is approved. Between the 29th day of April, 1980 and the day on which the Plan is approved, only residential and agricultural development for which a severance is not required and additions to or alterations of existing buildings may be permitted provided that the estimated cost of completion does not exceed \$100,000.

The Bill also amends procedures relating to appeals from decisions concerning development permits. The appeal right is broadened to include a thirty day notice period during which an appeal may be made to the Ontario Municipal Board.

BILL 64

1980

**An Act to amend
The Niagara Escarpment Planning
and Development Act, 1973**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Niagara Escarpment Planning and Development Act, 1973*, being chapter 52, as amended by the Statutes of Ontario, 1975, chapter 68, section 1 and 1976, chapter 35, section 1, is further amended by adding thereto the following clause:

(da) "Municipal Board" means the Ontario Municipal Board.

2. Section 23 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 35, section 4, is further amended by adding thereto the following subsection:

(1a) Between the 29th day of April, 1980 and the day on which the Niagara Escarpment Plan is approved by the Lieutenant Governor in Council, no development shall be exempted from development control or permitted, through the issuance of a development permit under this Act, by the Minister, the Commissioner, a county or regional municipality or city, as the case may be, unless,

(a) the estimated cost of completion of the development is less than \$100,000; and

(b) in the case of a residential or agricultural development, the development can be completed without the requirement of a consent under *The Planning Act*; or

(c) the development is an addition to or alteration of an existing building.

s. 1.
amended

s. 23.
amended

Limitation
on issuance
of develop-
ment permits

R.S.O. 1970,
c. 349

s. 24 (5, 6),
re-enacted;
s. 24 (7-12),
repealed

Notification
of decision

3. Subsections 5 to 12 of section 24 of the said Act are repealed and the following substituted therefor:

(5) The Commission, or a county or regional municipality or city to whom the Minister has delegated his authority under subsection 1, shall by regular or registered mail cause a copy of the decision made by it on any application for a development permit to be mailed to the Minister, to the applicant for the permit, to all assessed owners of land lying within 400 feet of the land that is the subject of the application, to the clerk of every municipality in which the land is situated and to any person who has requested to receive a copy of the decision or of any decision on an application for a development permit, and every copy of such decision shall include a notice specifying that any person, within thirty days of the mailing of it, may appeal in writing to the Municipal Board against the decision.

Appeal to
O.M.B.

(6) Where the Municipal Board receives one or more notices of appeal under subsection 5, the Board shall hear the appeal, and upon completion of the hearing, the Board may confirm the decision or vary the decision and may order that the development permit be issued or not issued or issued subject to such terms and conditions as the Board considers desirable.

s. 25,
re-enacted

4. Section 25 of the said Act, as amended by the Statutes of Ontario, 1978, chapter 87, section 58, is repealed and the following substituted therefor:

Minister's
power of
decision

25.—(1) Where the Minister has not delegated his authority under section 24 and he receives an application for a development permit, the Minister shall consider the merits of the application and may make a decision to issue the development permit or to refuse to issue the permit or to issue the permit subject to such terms and conditions as he considers desirable.

Notification
of decision

(2) The Minister shall, by regular or registered mail, cause a copy of the decision made by him on any application for a development permit to be mailed to the applicant for the permit, to all assessed owners of land lying within 400 feet of the land that is the subject of the application, to the clerk of every municipality in which the land is situated and to any person who has requested to receive a copy of the decision or of any decision on an application for a development permit, and every copy of such decision shall include a notice specifying that any person within thirty days of the mailing of it, may appeal in writing to the Municipal Board against the decision.

(3) Where the Municipal Board receives one or more notices of appeal under subsection 2, the Board shall hear the appeal, and upon completion of the hearing, the Board may confirm the decision or vary the decision and may order that the development permit be issued or not issued or issued subject to such terms and conditions as the Board considers desirable.

Appeal to
O.M.B.

5. This Act comes into force on the day it receives Royal Assent. Commence-
ment
6. The short title of this Act is *The Niagara Escarpment Planning and Development Amendment Act, 1980*. Short title

An Act to amend
The Niagara Escarpment Planning
and Development Act, 1973

1st Reading

April 29th, 1980

2nd Reading

3rd Reading

MR. SWART

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Legislative Assembly

An Act to amend The Highway Traffic Act

THE HON. J. W. SNOW
Minister of Transportation and Communications

EXPLANATORY NOTES

SECTION 1. The definition of solid tires is removed. This reference is now obsolete.

SECTION 2. The provision now permits the Minister to authorize the Deputy Minister or the Registrar to discharge his duties imposed under the Act. The amendment extends this authority to duties imposed under the Regulations.

SECTIONS 3 AND 4. References to a manufacturer's serial number on a motor vehicle are deleted and replaced by references to a vehicle identification number.

SECTION 5.—Subsections 1 and 3. The requirements in respect of lights on a motor vehicle are now covered by federal standards and accordingly are redundant in this Act.

Subsection 2. The amendment brings clearance light standards in line with federal legislation.

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 30 of subsection 1 of section 1 of *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, is repealed. s. 1 (1),
par. 30,
repealed
2. Subsection 3 of section 3 of the said Act is amended by inserting after "Act" in the fourth line "or the regulations". s. 3 (3),
amended
3. Subsection 3 of section 7 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 66, section 3 and 1978, chapter 4, section 2, is further amended by striking out "serial number" in the third line and inserting in lieu thereof "vehicle identification number". s. 7 (3),
amended
- 4.—(1) Subsection 2 of section 36 of the said Act, as amended by the Statutes of Ontario, 1978, chapter 4, section 3, is further amended by striking out "serial number" in the third line and inserting in lieu thereof "vehicle identification number". s. 36 (2),
amended
- (2) Subsection 3 of the said section 36, as amended by the Statutes of Ontario, 1978, chapter 4, section 3, is further amended by striking out "serial number" in the first and second lines and inserting in lieu thereof "vehicle identification number". s. 36 (3),
amended
- 5.—(1) Subsection 2 of section 37 of the said Act, as amended by the Statutes of Ontario, 1978, chapter 4, section 4, is repealed. s. 37 (2),
repealed
- (2) Subsection 6 of the said section 37, as amended by the Statutes of Ontario, 1976, chapter 37, section 5 and 1978, chapter 4, section 4, is further amended by striking out "within 160 millimetres of the side of the vehicle" in the twenty-fourth line and in the amendment of 1978 and inserting in lieu thereof "so as to indicate the overall width of the vehicle". s. 37 (6),
amended
- (3) Subsection 7 of the said section 37, as amended by the Statutes of Ontario, 1978, chapter 4, section 4, is repealed. s. 37 (7),
repealed

s. 37 (8),
repealed

(4) Subsection 8 of the said section 37 is repealed.

s. 37 (19),
amended

(5) Subsection 19 of the said section 37, as amended by the Statutes of Ontario, 1978, chapter 4, section 4, is further amended by inserting after "vehicle" in the first line "other than a public utility emergency vehicle".

s. 37 (26, 27),
repealed

(6) Subsections 26 and 27 of the said section 37 are repealed.

s. 44 (1),
re-enacted

6.—(1) Subsection 1 of section 44 of the said Act is repealed and the following substituted therefor:

Regulations

(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the standards and specifications of tires or any class or classes thereof in use on vehicles or any class or classes thereof;
- (b) prescribing classes of tires;
- (c) prescribing the standards and specifications of used or retreaded tires offered for sale and prohibiting the sale of such tires or any type thereof that do not comply with the standards and specifications therefor prescribed by the regulations or that are not marked in accordance with the regulations;
- (d) providing for and requiring the identification and marking of used or retreaded tires;
- (e) prohibiting the use of any type of tire on a highway at any time or during any period of the year and designating such period;
- (f) prescribing procedures for examining tires for the purpose of determining whether the prescribed standards and specifications have been met;
- (g) regulating installation and placement of tires to be used on vehicles or any class or classes thereof;
- (h) regulating combinations of tires installed on vehicles or any class or classes thereof;
- (i) prescribing forms for the purposes of subsection 5.

s. 44 (3),
re-enacted

(2) Subsection 3 of the said section 44 is repealed and the following substituted therefor:

Subsection 4. The repeal is complementary to subsections 1 and 3 of this section.

Subsection 5. The provision now prohibits a motor vehicle being equipped with more than one spotlamp. The amendment exempts public utility emergency vehicles.

Subsection 6. The requirement that vehicles be equipped with signalling devices is now covered by federal legislation and is redundant in the Act.

SECTION 6.—Subsection 1. Subsection 1 of section 44 of the Act currently provides the authority to make regulations in respect of the use of tires on vehicles. The provision as recast expands on this authority.

Subsection 2. The new subsection 3 of section 44 of the Act is complementary to subsection 1. The new subsection 4 of section 44 of the Act is a re-enactment of the current subsection 3 of section 44 of the Act with a technical change to recognize the other amendments made by this section. The amount of the penalty is not changed.

Subsection 5 of section 44 of the Act is a new provision. Where there is a contravention in respect of tires on a vehicle and an immediate safety hazard is not present, the driver is given ninety-six hours to correct the problem. If this is done then no penalty is imposed.

SECTIONS 7, 8, 9. Self-explanatory.

(3) No person shall drive or draw a vehicle on a highway, Offence

(a) fitted with a tire that does not conform with the standards and specifications prescribed in the regulations; or

(b) fitted with tires that are installed in a manner, in a place or in a combination that does not conform with the specifications prescribed in the regulations.

(4) Every person who contravenes this section or any regulation made under this section is guilty of an offence and on conviction is liable to a fine of not more than \$500. Penalty

(5) Where a constable or an officer appointed for the purpose of carrying out the provisions of this Act reasonably believes that a vehicle being operated on a highway is equipped with tires that do not conform to standards and specifications prescribed by the regulations, he may give the driver of the vehicle involved in the contravention a written notice in the prescribed form requiring the driver, within ninety-six hours after receiving the notice, to produce to a constable or officer at a location specified in the notice, evidence that the tires on the vehicle do not contravene the Act or the regulations, that the vehicle has been equipped with tires that conform to the prescribed standards and specifications or that an “unfit motor vehicle permit” has been issued for the vehicle. Notice to conform

(6) Subsection 4 does not apply to a person who has received a notice under subsection 5 and has complied with the notice. Non-application of subs. 4

7. Section 47 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 45, section 16, is further amended by adding thereto the following subsection: s. 47, amended

(1b) No person shall drive on a highway a motor vehicle on which the surface of the windshield or of any window to the direct left or right of the driver’s seat has been coated with any coloured spray or other coloured or reflective material that substantially obscures the interior of the motor vehicle when viewed from outside the motor vehicle. Colour coating obscuring interior

8. Section 52a of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 66, section 1, is amended by adding thereto the following subsections: s. 52a, amended

(7) No person shall sell, offer or advertise for sale a radar warning device by retail. Sale of radar warning devices prohibited

(8) Every person who contravenes subsection 7 is guilty of an offence and on conviction is liable, Penalty

- (a) for a first offence, to a fine of not more than \$1,000; and
- (b) for each subsequent offence, to a fine of not more than \$5,000.

s. 53a,
enacted

9. The said Act is amended by adding thereto the following section:

Modified
suspension
systems
prohibited

53a.—(1) No person shall operate on a highway a motor vehicle on which the suspension system has been modified so that the height of the motor vehicle is more than eight centimetres higher or lower than its height at the time of its manufacture.

Exemption

(2) Subsection 1 does not apply to a commercial motor vehicle having a gross weight of more than 2,400 kilograms.

s. 61 (2),
re-enacted

10.—(1) Subsection 2 of section 61 of the said Act, as amended by the Statutes of Ontario, 1978, chapter 4, section 10, is repealed and the following substituted therefor:

Reflectors

(2) Every commercial motor vehicle and every trailer shall have securely attached to the back thereof two red reflectors approved by the Ministry, which shall be located as far apart as practicable, at the same height and in such positions as to reflect the light from the headlights of a vehicle approaching from the rear.

s. 61,
amended

(2) The said section 61, as amended by the Statutes of Ontario, 1978, chapter 4, section 10, is further amended by adding thereto the following subsection:

Exemption
to subs. 4

(4a) Subsection 4 does not apply to a road-building machine, operated by or on behalf of an authority having jurisdiction and control of the highway, while engaged in construction or maintenance activities on the highway.

s. 65,
amended

11.—(1) Section 65 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 1 and amended by 1977, chapter 65, section 2, 1978, chapter 4, section 11, 1978, chapter 24, section 6, 1978, chapter 90, section 4 and 1979, chapter 57, section 5, is further amended by adding thereto the following subsection:

Rear vision
mirrors,
lamps, etc.,
not included
in width of
bus

(3a) Where a bus is equipped with rear vision mirrors, side marker lamps, side marker reflectors, side mounted turn indicators or rubber fenders around the outer edges of its wheel housings, any of which extend in whole or in part beyond either side of the vehicle, the amount of such extension shall not be included in determining the maximum width of the vehicle under subsection 1.

SECTION 10.—Subsection 1. The provision in respect of the placing of red reflectors on commercial motor vehicles has been recast to conform to federal standards.

Subsection 2. Subsection 4 of section 61 requires every road building machine on a highway to have the owner's name and address showing thereon. The new provision exempts machines that are engaged in construction or maintenance activities on a highway from this requirement.

SECTION 11.—Subsection 1. Subsection 1 of section 65 of the Act limits the permitted width of vehicles on the highway. The new provision specifies items on buses that are not to be included in determining width.

Subsection 2. The Act limits the length of buses to 12.5 metres. The amendment excludes articulated buses from this provision.

SECTION 12. Section 72 of the Act sets out axle unit weights permitted. The section also sets out a lower weight limit in cases where the driver does not produce a manufacturer's rating statement.

The amendment provides that where the driver does not produce this statement or verification, he is deemed to not have it. It also clarifies that a weight in excess of the prescribed weight is not permitted even where the manufacturer's rated weight is greater.

SECTION 13. The amendment corrects a typographical error.

SECTION 14. The section on speed limits has been rewritten in a more compact form. One change of substance is that a designation of a construction zone will not be a regulation under *The Regulations Act*.

Another change is that regulations prescribing rates of speed will be made by the Minister instead of by the Lieutenant Governor in Council.

- (2) Subsection 7 of the said section 65, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 2 and amended by 1978, chapter 4, section 11, is further amended by inserting after "bus" in the first line "other than an articulated bus". s. 65 (7),
amended

- 12.** Subsection 4 of section 72 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3 and amended by 1978, chapter 4, section 15, is repealed and the following substituted therefor: s. 72 (4),
re-enacted

(4) Notwithstanding subsection 1, the maximum allowable axle unit weight for a single front axle shall not exceed 5,000 kilograms unless the driver of the vehicle or combination of vehicles has with him a verification in writing as to the manufacturer's gross axle weight rating for such single front axle. Idem

(5) The driver of a vehicle or combination of vehicles being operated on a Class A Highway who has the verification referred to in subsection 4 shall produce it when so demanded by a police officer or an officer appointed for carrying out the provisions of this Act, and, where it is so demanded and not produced, the driver shall be deemed to not have the verification. Production
of
verification

(6) Where subsection 4 does not apply because the driver has the verification referred to in subsection 4, then subject to subsection 1, the maximum allowable axle unit weight on the single front axle shall not exceed the manufacturer's gross axle weight rating. Maximum
allowable
axle unit
weight

- 13.** Subsection 13 of section 77 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended by striking out "section" in the third line and inserting in lieu thereof "subsection". s. 77 (13),
amended

- 14.** Section 82 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 123, section 21, 1975, chapter 78, section 7, 1977, chapter 19, section 3, 1977, chapter 54, section 12 and 1978, chapter 90, section 8, is repealed and the following substituted therefor: s. 82.
re-enacted

82.—(1) No person shall drive a motor vehicle at a rate of speed greater than, Rate of
speed

(a) 80 kilometres per hour,

(i) on a highway not within a city, town, village, police village or built-up area, or

(ii) on a highway designated by the Lieutenant Governor in Council as a controlled-access highway under *The Public Transportation and Highway* R.S.O. 1970,
c. 201

Improvement Act, whether or not such a highway is within a city, town, village, police village or built-up area;

- (b) subject to clause *a*, 50 kilometres per hour on a highway within a city, town, village, police village or built-up area;
- (c) the rate of speed prescribed for motor vehicles on a highway in accordance with the provisions of subsection 2, 3, 4, 5 or 6;
- (d) the maximum rate of speed posted in a construction zone designated under subsection 7; or
- (e) the rate of speed prescribed for motor vehicles on a metropolitan road in accordance with section 82 of *The Municipality of Metropolitan Toronto Act*.

R.S.O. 1970,
c. 295

Rate of
speed by
by-law:

(2) The council of a municipality and the trustees of a police village may by by-law prescribe a rate of speed of 40, 50, 60, 70, 80, 90 or 100 kilometres per hour for motor vehicles driven on a highway or portion of a highway under its jurisdiction.

in public
parks

(3) The council of a municipality and the trustees of a police village may by by-law prescribe a lower rate of speed for motor vehicles driven in any public park or exhibition ground than is prescribed in subsection 1, but such lower rate of speed shall not be less than 20 kilometres per hour.

in school
zones

(4) The council of a municipality and the trustees of a police village may by by-law,

- (a) designate a portion of a highway under its jurisdiction that adjoins the entrance to or exit from a school and that is within 150 metres along the highway in either direction beyond the limits of the land used for the purposes of the school; and
- (b) prescribe a rate of speed of 40 kilometres per hour for motor vehicles driven on the portion of a highway so designated on days on which school is regularly held and prescribe the time or times between the hours of 8.00 a.m. and 5.00 p.m. at which such speed limit is effective.

on bridges

(5) The council of a municipality and the trustees of a police village may by by-law prescribe a lower rate of speed for motor vehicles passing over a bridge on a highway under its jurisdiction than is prescribed in subsection 1 or in a by-law passed under subsection 2, but such lower rate of speed shall not be less than 10

kilometres per hour and signs indicating the maximum rate of speed shall be posted in a conspicuous place at each approach to the bridge.

(6) The Minister may make regulations prescribing a rate of speed for, Rate of speed by regulation

- (a) motor vehicles driven on a highway or portion of a highway within a provincial park;
- (b) any class or classes of motor vehicles driven on the King's Highway or portion of the King's Highway whether or not the King's Highway is within a city, town, village or police village, and such rate of speed may be different for any period or periods of the day or night or direction of travel; and
- (c) motor vehicles driven on a highway or portion of a highway in territory without municipal organization.

(7) An official of the Ministry authorized by the Minister in writing may designate any part of the King's Highway as a construction zone, and every construction zone shall be so marked by signs in accordance with the regulations. Construction zones

(8) A designation under subsection 7 is not a regulation within the meaning of *The Regulations Act*. R.S.O. 1970, c. 410 does not apply

(9) Signs posting the maximum rate of speed at which motor vehicles may be driven in a construction zone may be erected in accordance with the regulations by an official of the Ministry. Speed limit signs in construction zones

(10) No by-law passed under subsection 2, 4 or 5 or regulation made under clause c of subsection 6 becomes effective until the highway or portion thereof affected by the by-law or regulation, as the case may be, is signed in accordance with this Act and the regulations. By-laws, regulations effective when posted

(11) Where a by-law or regulation passed under this section or a by-law passed under section 82 of *The Municipality of Metropolitan Toronto Act* becomes effective, the rates of speed prescribed in subsection 1 do not apply to the highway or portion of the highway affected by the by-law or regulation. Exemption R.S.O. 1970, c. 295

(12) The speed limits prescribed under this section or any regulation or by-law passed under this section do not apply to, Fire department vehicles and police vehicles

- (a) a motor vehicle of a municipal fire department while proceeding to a fire or responding to, but not returning from, a fire alarm or other emergency call; or

- (b) a motor vehicle while used by a person in the lawful performance of his duties as a police officer.

Penalty

(13) Every person who contravenes any of the provisions of this section or any by-law or regulation made under this section is guilty of an offence and on conviction is liable, where the rate of speed at which the motor vehicle was driven,

- (a) is less than 20 kilometres per hour over the maximum speed limit, to a fine of \$1.25 for each kilometre per hour that the motor vehicle was driven over the maximum speed limit;
- (b) is 20 kilometres per hour or more but less than 40 kilometres per hour over the maximum speed limit, to a fine of \$1.75 for each kilometre per hour that the motor vehicle was driven over the maximum speed limit;
- (c) is 40 kilometres per hour or more but less than 60 kilometres per hour over the maximum speed limit, to a fine of \$2.50 for each kilometre per hour that the motor vehicle was driven over the maximum speed limit; and
- (d) is 60 kilometres per hour or more over the maximum speed limit, to a fine of \$3.25 for each kilometre per hour that the motor vehicle was driven over the maximum speed limit.

Suspension of
licence on
conviction

(14) Where a court or judge has convicted a person for a contravention of any provision of this section and has determined that the person convicted was driving at a rate of speed of 50 or more kilometres per hour greater than the maximum speed limit, he may suspend the driver's licence of such person for a period of not more than thirty days.

s. 82a,
amended

- 15.** Section 82a of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 19, section 4, is amended by striking out "subsection 2, 3, 4, 5, 6, 7 or 12 of" in the fourth and fifth lines.

s. 84,
re-enacted

- 16.** Section 84 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 19, section 5, is repealed and the following substituted therefor:

Territory
without
municipal
organization

84.—(1) For the purpose of this Act, the Lieutenant Governor in Council may make regulations providing for the regulation and control of traffic on any highway or portion of a highway in territory without municipal organization where the highway is not under the jurisdiction and control of the Ministry.

SECTION 15. The amendment is of a housekeeping nature.

SECTION 16. The subject-matter of section 84 of the Act is being included in the rewritten version of section 82 of the Act. The re-enacted section 84 is a new provision that is self-explanatory.

SECTION 17. Section 93 of the Act sets out the rules to be followed in making turns. It has been rewritten in a simpler, more compact form.

(2) With respect to a highway that is not under the jurisdiction and control of the Ministry, no action shall be brought against the Crown for damages caused by any default of the Ministry in maintaining the signs regulating and controlling traffic in territories without municipal organization and the Crown is not liable for damages sustained by any person using a highway in territory without municipal organization.

Liability
for damages

17. Section 93 of the said Act is repealed and the following substituted therefor:

s. 93.
re-enacted

93.—(1) In this section, “centre line” means,

Interpre-
tation

- (a) in the case of a highway on which traffic is permitted to move in opposing directions, the marked line or median that divides traffic moving in opposing directions on the highway or, where there is no marked line or median, the centre of the roadway; and
- (b) in the case of a highway designated for the use of one-way traffic, the left curb or edge of the roadway.

(2) Where a driver or operator of a vehicle intends to turn to the right into an intersecting highway, he shall, where the highway on which he is driving has marked lanes for traffic, approach the intersection within the right-hand lane or, where it has no such marked lanes, by keeping immediately to the left of the right curb or edge of the roadway and he shall make the right turn by entering the right-hand lane of the intersecting highway where such lane is marked or, where no such lane is marked, by keeping immediately to the left of the right curb or edge of the roadway being entered.

Turns;
right at
intersection

(3) Notwithstanding subsection 2, where more than one lane of a highway has been designated as a right-turn lane, the driver or operator of a vehicle intending to turn to the right into an intersecting highway shall approach the intersection in one of such lanes and leave the intersection in the lane of the intersecting highway that corresponds to the lane from which the turn was commenced.

right, where
multiple
lanes

(4) No driver or operator of a vehicle in an intersection shall turn left across the path of a vehicle approaching from the opposite direction unless he has afforded a reasonable opportunity to the driver or operator of the approaching vehicle to avoid a collision.

left, across
path of
approaching
vehicle

(5) Where a driver or operator of a vehicle intends to turn to the left into an intersecting highway, he shall, where the highway on which he is driving has marked lanes for traffic, approach the intersection within the left-hand lane provided for the use of

left, at
intersection

traffic moving in the direction in which his vehicle is proceeding or, where it has no such marked lanes, by keeping immediately to the right of the centre line of the highway and he shall make the left turn by entering the intersection to the right of the centre line or its extension and by leaving the intersection in the left-hand lane provided for the use of traffic moving in the direction in which his vehicle is proceeding where such lane is marked or, where no such lane is marked, by passing immediately to the right of the centre line of the intersecting highway.

left, where
multiple
lanes

(6) Notwithstanding subsection 5, where more than one lane of a highway has been designated as a left-turn lane, the driver or operator of a vehicle intending to turn to the left into an intersecting highway shall approach the intersection in one of such lanes and leave the intersection in the lane of the intersecting highway that corresponds to the lane from which the turn was commenced.

s. 101,
amended

18. Section 101 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 123, section 27, is further amended by inserting after "sections" in the first line "93".

s. 128a (1),
re-enacted

19. Subsection 1 of section 128a of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 19, section 19, is repealed and the following substituted therefor:

Prohibiting
commercial
vehicles in
left lane

(1) The council of a municipality may by by-law prohibit the operation of,

(a) a commercial motor vehicle other than a bus; or

(b) any combination of a commercial motor vehicle and a towed vehicle,

that exceeds 6.5 metres in length, in the left lane of any highway under its jurisdiction that has three or more lanes for traffic in each direction and on which the maximum speed limit is 80 kilometres per hour or more.

s. 152,
amended

20. Section 152 of the said Act is amended by adding thereto the following subsection:

For
pedestrian
offences

(2) Notwithstanding subsection 1, every person, while a pedestrian or a person in a wheel-chair, who contravenes any provision of Part IX or any regulation made thereunder, is guilty of an offence and on conviction, where a penalty for the contravention is not otherwise provided for herein, is liable to a fine of not more than \$50.

Commence-
ment

21.—(1) This Act, except sections 7, 9, 14, 15, 16, 17, 18 and 19, comes into force on the day it receives Royal Assent.

SECTION 18. The effect of the amendment is to enable a municipality or the Minister or any person authorized by the Minister to designate left and right hand turn lanes for purposes of the new section 93 of the Act.

SECTION 19. Section 128*a* of the Act now enables a municipality to prohibit the operation of commercial motor vehicles in the left lane of a highway with three or more lanes for traffic in each direction where the maximum speed limit is 80 kilometres or more. The provision as recast limits this authority to prohibit so that it applies only in respect of a commercial motor vehicle or a combination of a commercial motor vehicle and a towed vehicle exceeding 6.5 metres in length.

SECTION 20. Section 152 of the Act provides for a general penalty where specific penalties are not provided in the Act. The general penalty is a fine of not less than \$20 and not more than \$100. The new provision provides that for pedestrian-related offences there is no minimum fine and the maximum is \$50.

(2) Sections 7, 14, 15, 16 and 19 come into force on the 1st day of ^{Idem} September, 1980.

(3) Sections 9, 17 and 18 come into force on a day to be named by ^{Idem} proclamation of the Lieutenant Governor.

22. The short title of this Act is *The Highway Traffic Amendment Act*, ^{Short title} 1980.



An Act to amend
The Highway Traffic Act

1st Reading

May 1st, 1980

2nd Reading

3rd Reading

THE HON. J. W. SNOW
Minister of Transportation
and Communications

(Government Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Highway Traffic Act

THE HON. J. W. SNOW
Minister of Transportation and Communications



(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. The definition of solid tires is removed. This reference is now obsolete.

SECTION 2. The provision now permits the Minister to authorize the Deputy Minister or the Registrar to discharge his duties imposed under the Act. The amendment extends this authority to duties imposed under the Regulations.

SECTIONS 3 AND 4. References to a manufacturer's serial number on a motor vehicle are deleted and replaced by references to a vehicle identification number.

SECTION 5.—Subsections 1 and 3. The requirements in respect of lights on a motor vehicle are now covered by federal standards and accordingly are redundant in this Act.

Subsection 2. The amendment brings clearance light standards in line with federal legislation.

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 30 of subsection 1 of section 1 of *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, is repealed. s. 1 (1),
par. 30,
repealed
2. Subsection 3 of section 3 of the said Act is amended by inserting after "Act" in the fourth line "or the regulations". s. 3 (3),
amended
3. Subsection 3 of section 7 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 66, section 3 and 1978, chapter 4, section 2, is further amended by striking out "serial number" in the third line and inserting in lieu thereof "vehicle identification number". s. 7 (3),
amended
- 4.—(1) Subsection 2 of section 36 of the said Act, as amended by the Statutes of Ontario, 1978, chapter 4, section 3, is further amended by striking out "serial number" in the third line and inserting in lieu thereof "vehicle identification number". s. 36 (2),
amended
- (2) Subsection 3 of the said section 36, as amended by the Statutes of Ontario, 1978, chapter 4, section 3, is further amended by striking out "serial number" in the first and second lines and inserting in lieu thereof "vehicle identification number". s. 36 (3),
amended
- 5.—(1) Subsection 2 of section 37 of the said Act, as amended by the Statutes of Ontario, 1978, chapter 4, section 4, is repealed. s. 37 (2),
repealed
- (2) Subsection 6 of the said section 37, as amended by the Statutes of Ontario, 1976, chapter 37, section 5 and 1978, chapter 4, section 4, is further amended by striking out "within 160 millimetres of the side of the vehicle" in the twenty-fourth line and in the amendment of 1978 and inserting in lieu thereof "so as to indicate the overall width of the vehicle". s. 37 (6),
amended
- (3) Subsection 7 of the said section 37, as amended by the Statutes of Ontario, 1978, chapter 4, section 4, is repealed. s. 37 (7),
repealed

s. 37 (8),
repealed

(4) Subsection 8 of the said section 37 is repealed.

s. 37 (19),
amended

(5) Subsection 19 of the said section 37, as amended by the Statutes of Ontario, 1978, chapter 4, section 4, is further amended by inserting after "vehicle" in the first line "other than a public utility emergency vehicle".

s. 37 (26, 27),
repealed

(6) Subsections 26 and 27 of the said section 37 are repealed.

s. 44 (1),
re-enacted

6.—(1) Subsection 1 of section 44 of the said Act is repealed and the following substituted therefor:

Regulations

(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the standards and specifications of tires or any class or classes thereof in use on vehicles or any class or classes thereof;
- (b) prescribing classes of tires;
- (c) prescribing the standards and specifications of used or retreaded tires offered for sale and prohibiting the sale of such tires or any type thereof that do not comply with the standards and specifications therefor prescribed by the regulations or that are not marked in accordance with the regulations;
- (d) providing for and requiring the identification and marking of used or retreaded tires;
- (e) prohibiting the use of any type of tire on a highway at any time or during any period of the year and designating such period;
- (f) prescribing procedures for examining tires for the purpose of determining whether the prescribed standards and specifications have been met;
- (g) regulating installation and placement of tires to be used on vehicles or any class or classes thereof;
- (h) regulating combinations of tires installed on vehicles or any class or classes thereof;
- (i) prescribing forms for the purposes of subsection 5.

s. 44 (3),
re-enacted

(2) Subsection 3 of the said section 44 is repealed and the following substituted therefor:

Subsection 4. The repeal is complementary to subsections 1 and 3 of this section.

Subsection 5. The provision now prohibits a motor vehicle being equipped with more than one spotlight. The amendment exempts public utility emergency vehicles.

Subsection 6. The requirement that vehicles be equipped with signalling devices is now covered by federal legislation and is redundant in the Act.

SECTION 6.—Subsection 1. Subsection 1 of section 44 of the Act currently provides the authority to make regulations in respect of the use of tires on vehicles. The provision as recast expands on this authority.

Subsection 2. The new subsection 3 of section 44 of the Act is complementary to subsection 1. The new subsection 4 of section 44 of the Act is a re-enactment of the current subsection 3 of section 44 of the Act with a technical change to recognize the other amendments made by this section. The amount of the penalty is not changed.

Subsection 5 of section 44 of the Act is a new provision. Where there is a contravention in respect of tires on a vehicle and an immediate safety hazard is not present, the driver is given ninety-six hours to correct the problem. If this is done then no penalty is imposed.

SECTIONS 7, 8, 9. Self-explanatory.

(3) No person shall drive or draw a vehicle on a highway, Offence

(a) fitted with a tire that does not conform with the standards and specifications prescribed in the regulations; or

(b) fitted with tires that are installed in a manner, in a place or in a combination that does not conform with the specifications prescribed in the regulations.

(4) Every person who contravenes this section or any regulation made under this section is guilty of an offence and on conviction is liable to a fine of not more than \$500. Penalty

(5) Where a constable or an officer appointed for the purpose of carrying out the provisions of this Act reasonably believes that a vehicle being operated on a highway is equipped with tires that do not conform to standards and specifications prescribed by the regulations, he may give the driver of the vehicle involved in the contravention a written notice in the prescribed form requiring the driver, within ninety-six hours after receiving the notice, to produce to a constable or officer at a location specified in the notice, evidence that the tires on the vehicle do not contravene the Act or the regulations, that the vehicle has been equipped with tires that conform to the prescribed standards and specifications or that an "unfit motor vehicle permit" has been issued for the vehicle. Notice to conform

(6) Subsection 4 does not apply to a person who has received a notice under subsection 5 and has complied with the notice. Non-application of subs. 4

7. Section 47 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 45, section 16, is further amended by adding thereto the following subsection: s. 47, amended

(1b) No person shall drive on a highway a motor vehicle on which the surface of the windshield or of any window to the direct left or right of the driver's seat has been coated with any coloured spray or other coloured or reflective material that substantially obscures the interior of the motor vehicle when viewed from outside the motor vehicle. Colour coating obscuring interior

8. Section 52a of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 66, section 1, is amended by adding thereto the following subsections: s. 52a, amended

(7) No person shall sell, offer or advertise for sale a radar warning device by retail. Sale of radar warning devices prohibited

(8) Every person who contravenes subsection 7 is guilty of an offence and on conviction is liable, Penalty

- (a) for a first offence, to a fine of not more than \$1,000; and
- (b) for each subsequent offence, to a fine of not more than \$5,000.

s. 53a,
enacted

9. The said Act is amended by adding thereto the following section:

Modified
suspension
systems
prohibited

53a.—(1) No person shall operate on a highway a motor vehicle on which the suspension system has been modified so that the height of the motor vehicle is more than eight centimetres higher or lower than its height at the time of its manufacture.

Exemption

(2) Subsection 1 does not apply to a commercial motor vehicle having a gross weight of more than 2,400 kilograms.

s. 61 (2),
re-enacted

10.—(1) Subsection 2 of section 61 of the said Act, as amended by the Statutes of Ontario, 1978, chapter 4, section 10, is repealed and the following substituted therefor:

Reflectors

(2) Every commercial motor vehicle and every trailer shall have securely attached to the back thereof two red reflectors approved by the Ministry, which shall be located as far apart as practicable, at the same height and in such positions as to reflect the light from the headlights of a vehicle approaching from the rear.

s. 61,
amended

(2) The said section 61, as amended by the Statutes of Ontario, 1978, chapter 4, section 10, is further amended by adding thereto the following subsection:

Exemption
to subs. 4

(4a) Subsection 4 does not apply to a road-building machine, operated by or on behalf of an authority having jurisdiction and control of the highway, while engaged in construction or maintenance activities on the highway.

s. 65,
amended

11.—(1) Section 65 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 1 and amended by 1977, chapter 65, section 2, 1978, chapter 4, section 11, 1978, chapter 24, section 6, 1978, chapter 90, section 4 and 1979, chapter 57, section 5, is further amended by adding thereto the following subsection:

Rear vision
mirrors,
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not included
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(3a) Where a bus is equipped with rear vision mirrors, side marker lamps, side marker reflectors, side mounted turn indicators or rubber fenders around the outer edges of its wheel housings, any of which extend in whole or in part beyond either side of the vehicle, the amount of such extension shall not be included in determining the maximum width of the vehicle under subsection 1.

SECTION 10—Subsection 1. The provision in respect of the placing of red reflectors on commercial motor vehicles has been recast to conform to federal standards.

Subsection 2. Subsection 4 of section 61 requires every road building machine on a highway to have the owner's name and address showing thereon. The new provision exempts machines that are engaged in construction or maintenance activities on a highway from this requirement.

SECTION 11.—Subsection 1. Subsection 1 of section 65 of the Act limits the permitted width of vehicles on the highway. The new provision specifies items on buses that are not to be included in determining width.

Subsection 2. The Act limits the length of buses to 12.5 metres. The amendment excludes articulated buses from this provision.

SECTION 12. Section 72 of the Act sets out axle unit weights permitted. The section also sets out a lower weight limit in cases where the driver does not produce a manufacturer's rating statement.

The amendment provides that where the driver does not produce this statement or verification, he is deemed to not have it. It also clarifies that a weight in excess of the prescribed weight is not permitted even where the manufacturer's rated weight is greater.

SECTION 13. The amendment corrects a typographical error.

SECTION 14. The section on speed limits has been rewritten in a more compact form. One change of substance is that a designation of a construction zone will not be a regulation under *The Regulations Act*.

Another change is that regulations prescribing rates of speed will be made by the Minister instead of by the Lieutenant Governor in Council.

- (2) Subsection 7 of the said section 65, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 2 and amended by 1978, chapter 4, section 11, is further amended by inserting after "bus" in the first line "other than an articulated bus". s. 65 (7),
amended
12. Subsection 4 of section 72 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3 and amended by 1978, chapter 4, section 15, is repealed and the following substituted therefor: s. 72 (4),
re-enacted
- (4) Notwithstanding subsection 1, the maximum allowable axle unit weight for a single front axle shall not exceed 5,000 kilograms unless the driver of the vehicle or combination of vehicles has with him a verification in writing as to the manufacturer's gross axle weight rating for such single front axle. Idem
- (5) The driver of a vehicle or combination of vehicles being operated on a Class A Highway who has the verification referred to in subsection 4 shall produce it when so demanded by a police officer or an officer appointed for carrying out the provisions of this Act, and, where it is so demanded and not produced, the driver shall be deemed to not have the verification. Production
of
verification
- (6) Where subsection 4 does not apply because the driver has the verification referred to in subsection 4, then subject to subsection 1, the maximum allowable axle unit weight on the single front axle shall not exceed the manufacturer's gross axle weight rating. Maximum
allowable
axle unit
weight
13. Subsection 13 of section 77 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended by striking out "section" in the third line and inserting in lieu thereof "subsection". s. 77 (13),
amended
14. Section 82 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 123, section 21, 1975, chapter 78, section 7, 1977, chapter 19, section 3, 1977, chapter 54, section 12 and 1978, chapter 90, section 8, is repealed and the following substituted therefor: s. 82,
re-enacted
- 82.—(1) No person shall drive a motor vehicle at a rate of speed greater than, Rate of
speed
- (a) 80 kilometres per hour,
- (i) on a highway not within a city, town, village, police village or built-up area, or
- (ii) on a highway designated by the Lieutenant Governor in Council as a controlled-access highway under *The Public Transportation and Highway* R.S.O. 1970,
c. 201

Improvement Act, whether or not such a highway is within a city, town, village, police village or built-up area;

- (b) subject to clause *a*, 50 kilometres per hour on a highway within a city, town, village, police village or built-up area;
- (c) the rate of speed prescribed for motor vehicles on a highway in accordance with the provisions of subsection 2, 3, 4, 5 or 6;
- (d) the maximum rate of speed posted in a construction zone designated under subsection 7; or
- (e) the rate of speed prescribed for motor vehicles on a metropolitan road in accordance with section 82 of *The Municipality of Metropolitan Toronto Act*.

R.S.O. 1970.
c. 295

Rate of
speed by
by-law:

(2) The council of a municipality and the trustees of a police village may by by-law prescribe a rate of speed of 40, 50, 60, 70, 80, 90 or 100 kilometres per hour for motor vehicles driven on a highway or portion of a highway under its jurisdiction.

in public
parks

(3) The council of a municipality and the trustees of a police village may by by-law prescribe a lower rate of speed for motor vehicles driven in any public park or exhibition ground than is prescribed in subsection 1, but such lower rate of speed shall not be less than 20 kilometres per hour.

in school
zones

(4) The council of a municipality and the trustees of a police village may by by-law,

- (a) designate a portion of a highway under its jurisdiction that adjoins the entrance to or exit from a school and that is within 150 metres along the highway in either direction beyond the limits of the land used for the purposes of the school; and
- (b) prescribe a rate of speed of 40 kilometres per hour for motor vehicles driven on the portion of a highway so designated on days on which school is regularly held and prescribe the time or times between the hours of 8.00 a.m. and 5.00 p.m. at which such speed limit is effective.

on bridges

(5) The council of a municipality and the trustees of a police village may by by-law prescribe a lower rate of speed for motor vehicles passing over a bridge on a highway under its jurisdiction than is prescribed in subsection 1 or in a by-law passed under subsection 2, but such lower rate of speed shall not be less than 10

kilometres per hour and signs indicating the maximum rate of speed shall be posted in a conspicuous place at each approach to the bridge.

(6) The Minister may make regulations prescribing a rate of speed for, Rate of speed by regulation

- (a) motor vehicles driven on a highway or portion of a highway within a provincial park;
- (b) any class or classes of motor vehicles driven on the King's Highway or portion of the King's Highway whether or not the King's Highway is within a city, town, village or police village, and such rate of speed may be different for any period or periods of the day or night or direction of travel; and
- (c) motor vehicles driven on a highway or portion of a highway in territory without municipal organization.

(7) An official of the Ministry authorized by the Minister in writing may designate any part of the King's Highway as a construction zone, and every construction zone shall be so marked by signs in accordance with the regulations. Construction zones

(8) A designation under subsection 7 is not a regulation within the meaning of *The Regulations Act*. R.S.O. 1970, c. 410 does not apply

(9) Signs posting the maximum rate of speed at which motor vehicles may be driven in a construction zone may be erected in accordance with the regulations by an official of the Ministry. Speed limit signs in construction zones

(10) No by-law passed under subsection 2, 4 or 5 or regulation made under clause c of subsection 6 becomes effective until the highway or portion thereof affected by the by-law or regulation, as the case may be, is signed in accordance with this Act and the regulations. By-laws, regulations effective when posted

(11) Where a by-law or regulation passed under this section or a by-law passed under section 82 of *The Municipality of Metropolitan Toronto Act* becomes effective, the rates of speed prescribed in subsection 1 do not apply to the highway or portion of the highway affected by the by-law or regulation. Exemption
R.S.O. 1970, c. 295

(12) The speed limits prescribed under this section or any regulation or by-law passed under this section do not apply to, Fire department vehicles and police vehicles

- (a) a motor vehicle of a municipal fire department while proceeding to a fire or responding to, but not returning from, a fire alarm or other emergency call; or

- (b) a motor vehicle while used by a person in the lawful performance of his duties as a police officer.

Penalty

(13) Every person who contravenes any of the provisions of this section or any by-law or regulation made under this section is guilty of an offence and on conviction is liable, where the rate of speed at which the motor vehicle was driven,

- (a) is less than 20 kilometres per hour over the maximum speed limit, to a fine of \$1.25 for each kilometre per hour that the motor vehicle was driven over the maximum speed limit;
- (b) is 20 kilometres per hour or more but less than 40 kilometres per hour over the maximum speed limit, to a fine of \$1.75 for each kilometre per hour that the motor vehicle was driven over the maximum speed limit;
- (c) is 40 kilometres per hour or more but less than 60 kilometres per hour over the maximum speed limit, to a fine of \$2.50 for each kilometre per hour that the motor vehicle was driven over the maximum speed limit; and
- (d) is 60 kilometres per hour or more over the maximum speed limit, to a fine of \$3.25 for each kilometre per hour that the motor vehicle was driven over the maximum speed limit.

Suspension of
licence on
conviction

(14) Where a court or judge has convicted a person for a contravention of any provision of this section and has determined that the person convicted was driving at a rate of speed of 50 or more kilometres per hour greater than the maximum speed limit, he may suspend the driver's licence of such person for a period of not more than thirty days.

s. 82a,
amended

- 15.** Section 82a of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 19, section 4, is amended by striking out "subsection 2, 3, 4, 5, 6, 7 or 12 of" in the fourth and fifth lines.

s. 84,
re-enacted

- 16.** Section 84 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 19, section 5, is repealed and the following substituted therefor:

Territory
without
municipal
organization

84.—(1) For the purpose of this Act, the Lieutenant Governor in Council may make regulations providing for the regulation and control of traffic on any highway or portion of a highway in territory without municipal organization where the highway is not under the jurisdiction and control of the Ministry.

SECTION 15. The amendment is of a housekeeping nature.

SECTION 16. The subject-matter of section 84 of the Act is being included in the rewritten version of section 82 of the Act. The re-enacted section 84 is a new provision that is self-explanatory.

SECTION 17. Section 93 of the Act sets out the rules to be followed in making turns. It has been rewritten in a simpler, more compact form.

(2) With respect to a highway that is not under the jurisdiction and control of the Ministry, no action shall be brought against the Crown for damages caused by any default of the Ministry in maintaining the signs regulating and controlling traffic in territories without municipal organization and the Crown is not liable for damages sustained by any person using a highway in territory without municipal organization.

Liability
for damages

17. Section 93 of the said Act is repealed and the following substituted therefor: s. 93,
re-enacted

93.—(1) In this section, “centre line” means,

Interpre-
tation

- (a) in the case of a highway on which traffic is permitted to move in opposing directions, the marked line or median that divides traffic moving in opposing directions on the highway or, where there is no marked line or median, the centre of the roadway; and
- (b) in the case of a highway designated for the use of one-way traffic, the left curb or edge of the roadway.

(2) Where a driver or operator of a vehicle intends to turn to the right into an intersecting highway, he shall, where the highway on which he is driving has marked lanes for traffic, approach the intersection within the right-hand lane or, where it has no such marked lanes, by keeping immediately to the left of the right curb or edge of the roadway and he shall make the right turn by entering the right-hand lane of the intersecting highway where such lane is marked or, where no such lane is marked, by keeping immediately to the left of the right curb or edge of the roadway being entered.

Turns;
right at
intersection

(3) Notwithstanding subsection 2, where more than one lane of a highway has been designated as a right-turn lane, the driver or operator of a vehicle intending to turn to the right into an intersecting highway shall approach the intersection in one of such lanes and leave the intersection in the lane of the intersecting highway that corresponds to the lane from which the turn was commenced.

right, where
multiple
lanes

(4) No driver or operator of a vehicle in an intersection shall turn left across the path of a vehicle approaching from the opposite direction unless he has afforded a reasonable opportunity to the driver or operator of the approaching vehicle to avoid a collision.

left, across
path of
approaching
vehicle

(5) Where a driver or operator of a vehicle intends to turn to the left into an intersecting highway, he shall, where the highway on which he is driving has marked lanes for traffic, approach the intersection within the left-hand lane provided for the use of

left, at
intersection

traffic moving in the direction in which his vehicle is proceeding or, where it has no such marked lanes, by keeping immediately to the right of the centre line of the highway and he shall make the left turn by entering the intersection to the right of the centre line or its extension and by leaving the intersection in the left-hand lane provided for the use of traffic moving in the direction in which his vehicle is proceeding where such lane is marked or, where no such lane is marked, by passing immediately to the right of the centre line of the intersecting highway.

left, where
multiple
lanes

(6) Notwithstanding subsection 5, where more than one lane of a highway has been designated as a left-turn lane, the driver or operator of a vehicle intending to turn to the left into an intersecting highway shall approach the intersection in one of such lanes and leave the intersection in the lane of the intersecting highway that corresponds to the lane from which the turn was commenced.

s. 101,
amended

- 18.** Section 101 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 123, section 27, is further amended by inserting after "sections" in the first line "93".

s. 128a (1),
re-enacted

- 19.** Subsection 1 of section 128a of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 19, section 19, is repealed and the following substituted therefor:

Prohibiting
commercial
vehicles in
left lane

(1) The council of a municipality may by by-law prohibit the operation of,

(a) a commercial motor vehicle other than a bus; or

(b) any combination of a commercial motor vehicle and a towed vehicle,

that exceeds 6.5 metres in length, in the left lane of any highway under its jurisdiction that has three or more lanes for traffic in each direction and on which the maximum speed limit is 80 kilometres per hour or more.



s. 147,
re-enacted



- 20.** Section 147 of the said Act, as amended by the Statutes of Ontario, 1975 (2nd Session), chapter 14, section 2 and 1976, chapter 37, section 18, is repealed and the following substituted therefor:

Vehicle
owner
may be
convicted

147.—(1) Subject to subsection 2, the owner of a vehicle may be charged with and convicted of an offence under this Act or the regulations or any municipal by-law regulating traffic for which the driver of the vehicle is subject to be charged unless, at the time of the offence, the vehicle was in the possession of some person other than the owner without the owner's consent and on conviction the owner is liable to the penalty prescribed for the offence.

SECTION 18. The effect of the amendment is to enable a municipality or the Minister or any person authorized by the Minister to designate left and right hand turn lanes for purposes of the new section 93 of the Act.

SECTION 19. Section 128a of the Act now enables a municipality to prohibit the operation of commercial motor vehicles in the left lane of a highway with three or more lanes for traffic in each direction where the maximum speed limit is 80 kilometres or more. The provision as recast limits this authority to prohibit so that it applies only in respect of a commercial motor vehicle or a combination of a commercial motor vehicle and a towed vehicle exceeding 6.5 metres in length.

 SECTION 20. The section as recast clarifies that the owner of a vehicle that is involved in a violation of certain offences, largely parking and loading offences, may be charged and convicted without the driver of the vehicle being previously convicted. 

SECTION 21. Section 152 of the Act provides for a general penalty where specific penalties are not provided in the Act. The general penalty is a fine of not less than \$20 and not more than \$100. The new provision provides that for pedestrian-related offences there is no minimum fine and the maximum is \$50.

(2) The owner of a vehicle, except when he is also the driver, shall not be convicted for a contravention of any of the provisions of subsection 3 or 6 of section 63*a* or of sections 82 to 114, 117, 120, 125 or 139 or any regulation or by-law made or passed thereunder or under subsection 8 of section 63*a* or of any of the provisions of any by-law passed under any Act regulating or prohibiting turns on a highway. When owner not liable

21. Section 152 of the said Act is amended by adding thereto the following subsection: s. 152, amended

(2) Notwithstanding subsection 1, every person, while a pedestrian or a person in a wheel-chair, who contravenes any provision of Part IX or any regulation made thereunder, is guilty of an offence and on conviction, where a penalty for the contravention is not otherwise provided for herein, is liable to a fine of not more than \$50. for pedestrian offences

22.—(1) This Act, except sections 7, 9, 14, 15, 16, 17, 18 and 19, comes into force on the day it receives Royal Assent. Commencement

(2) Sections 7, 14, 15, 16 and 19 come into force on the 1st day of September, 1980. Idem

(3) Sections 9, 17 and 18 come into force on a day to be named by proclamation of the Lieutenant Governor. Idem

23. The short title of this Act is *The Highway Traffic Amendment Act, 1980*. Short title

An Act to amend
The Highway Traffic Act

1st Reading

May 1st, 1980

2nd Reading

June 18th, 1980

3rd Reading

THE HON. J. W. SNOW
Minister of Transportation
and Communications

(Reprinted as amended by the
Committee of the Whole House)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Highway Traffic Act

THE HON. J. W. SNOW
Minister of Transportation and Communications

BILL 65

1980

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 30 of subsection 1 of section 1 of *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, is repealed. s. 1 (1)
par. 30
repealed
2. Subsection 3 of section 3 of the said Act is amended by inserting after "Act" in the fourth line "or the regulations". s. 3 (3)
amended
3. Subsection 3 of section 7 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 66, section 3 and 1978, chapter 4, section 2, is further amended by striking out "serial number" in the third line and inserting in lieu thereof "vehicle identification number". s. 7 (3)
amended
- 4.—(1) Subsection 2 of section 36 of the said Act, as amended by the Statutes of Ontario, 1978, chapter 4, section 3, is further amended by striking out "serial number" in the third line and inserting in lieu thereof "vehicle identification number". s. 36 (2)
amended
- (2) Subsection 3 of the said section 36, as amended by the Statutes of Ontario, 1978, chapter 4, section 3, is further amended by striking out "serial number" in the first and second lines and inserting in lieu thereof "vehicle identification number". s. 36 (3)
amended
- 5.—(1) Subsection 2 of section 37 of the said Act, as amended by the Statutes of Ontario, 1978, chapter 4, section 4, is repealed. s. 37 (2)
repealed
- (2) Subsection 6 of the said section 37, as amended by the Statutes of Ontario, 1976, chapter 37, section 5 and 1978, chapter 4, section 4, is further amended by striking out "within 160 millimetres of the side of the vehicle" in the twenty-fourth line and in the amendment of 1978 and inserting in lieu thereof "so as to indicate the overall width of the vehicle". s. 37 (6)
amended
- (3) Subsection 7 of the said section 37, as amended by the Statutes of Ontario, 1978, chapter 4, section 4, is repealed. s. 37 (7)
repealed

s. 37 (8),
repealed

(4) Subsection 8 of the said section 37 is repealed.

s. 37 (19),
amended

(5) Subsection 19 of the said section 37, as amended by the Statutes of Ontario, 1978, chapter 4, section 4, is further amended by inserting after "vehicle" in the first line "other than a public utility emergency vehicle".

s. 37 (26, 27),
repealed

(6) Subsections 26 and 27 of the said section 37 are repealed.

s. 44 (1),
re-enacted

6.—(1) Subsection 1 of section 44 of the said Act is repealed and the following substituted therefor:

Regulations

(1) The Lieutenant Governor in Council may make regulations,

(a) prescribing the standards and specifications of tires or any class or classes thereof in use on vehicles or any class or classes thereof;

(b) prescribing classes of tires;

(c) prescribing the standards and specifications of used or retreaded tires offered for sale and prohibiting the sale of such tires or any type thereof that do not comply with the standards and specifications therefor prescribed by the regulations or that are not marked in accordance with the regulations;

(d) providing for and requiring the identification and marking of used or retreaded tires;

(e) prohibiting the use of any type of tire on a highway at any time or during any period of the year and designating such period;

(f) prescribing procedures for examining tires for the purpose of determining whether the prescribed standards and specifications have been met;

(g) regulating installation and placement of tires to be used on vehicles or any class or classes thereof;

(h) regulating combinations of tires installed on vehicles or any class or classes thereof;

(i) prescribing forms for the purposes of subsection 5.

s. 44 (3),
re-enacted

(2) Subsection 3 of the said section 44 is repealed and the following substituted therefor:

(3) No person shall drive or draw a vehicle on a highway, Offence

(a) fitted with a tire that does not conform with the standards and specifications prescribed in the regulations; or

(b) fitted with tires that are installed in a manner, in a place or in a combination that does not conform with the specifications prescribed in the regulations.

(4) Every person who contravenes this section or any regulation made under this section is guilty of an offence and on conviction is liable to a fine of not more than \$500. Penalty

(5) Where a constable or an officer appointed for the purpose of carrying out the provisions of this Act reasonably believes that a vehicle being operated on a highway is equipped with tires that do not conform to standards and specifications prescribed by the regulations, he may give the driver of the vehicle involved in the contravention a written notice in the prescribed form requiring the driver, within ninety-six hours after receiving the notice, to produce to a constable or officer at a location specified in the notice, evidence that the tires on the vehicle do not contravene the Act or the regulations, that the vehicle has been equipped with tires that conform to the prescribed standards and specifications or that an “unfit motor vehicle permit” has been issued for the vehicle. Notice to conform

(6) Subsection 4 does not apply to a person who has received a notice under subsection 5 and has complied with the notice. Non-application of subs. 4

7. Section 47 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 45, section 16, is further amended by adding thereto the following subsection: s. 47, amended

(1b) No person shall drive on a highway a motor vehicle on which the surface of the windshield or of any window to the direct left or right of the driver's seat has been coated with any coloured spray or other coloured or reflective material that substantially obscures the interior of the motor vehicle when viewed from outside the motor vehicle. Colour coating obscuring interior

8. Section 52a of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 66, section 1, is amended by adding thereto the following subsections: s. 52a, amended

(7) No person shall sell, offer or advertise for sale a radar warning device by retail. Sale of radar warning devices prohibited

(8) Every person who contravenes subsection 7 is guilty of an offence and on conviction is liable, Penalty

(a) for a first offence, to a fine of not more than \$1,000; and

(b) for each subsequent offence, to a fine of not more than \$5,000.

s. 53a.
enacted

9. The said Act is amended by adding thereto the following section:

Modified
suspension
systems
prohibited

53a.—(1) No person shall operate on a highway a motor vehicle on which the suspension system has been modified so that the height of the motor vehicle is more than eight centimetres higher or lower than its height at the time of its manufacture.

Exemption

(2) Subsection 1 does not apply to a commercial motor vehicle having a gross weight of more than 2,400 kilograms.

s. 61 (2).
re-enacted

10.—(1) Subsection 2 of section 61 of the said Act, as amended by the Statutes of Ontario, 1978, chapter 4, section 10, is repealed and the following substituted therefor:

Reflectors

(2) Every commercial motor vehicle and every trailer shall have securely attached to the back thereof two red reflectors approved by the Ministry, which shall be located as far apart as practicable, at the same height and in such positions as to reflect the light from the headlights of a vehicle approaching from the rear.

s. 61.
amended

(2) The said section 61, as amended by the Statutes of Ontario, 1978, chapter 4, section 10, is further amended by adding thereto the following subsection:

Exemption
to subs. 4

(4a) Subsection 4 does not apply to a road-building machine, operated by or on behalf of an authority having jurisdiction and control of the highway, while engaged in construction or maintenance activities on the highway.

s. 65.
amended

11.—(1) Section 65 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 1 and amended by 1977, chapter 65, section 2, 1978, chapter 4, section 11, 1978, chapter 24, section 6, 1978, chapter 90, section 4 and 1979, chapter 57, section 5, is further amended by adding thereto the following subsection:

Rear vision
mirrors,
lamps, etc.,
not included
in width of
bus

(3a) Where a bus is equipped with rear vision mirrors, side marker lamps, side marker reflectors, side mounted turn indicators or rubber fenders around the outer edges of its wheel housings, any of which extend in whole or in part beyond either side of the vehicle, the amount of such extension shall not be included in determining the maximum width of the vehicle under subsection 1.

- (2) Subsection 7 of the said section 65, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 2 and amended by 1978, chapter 4, section 11, is further amended by inserting after "bus" in the first line "other than an articulated bus". s. 65 (7),
amended

- 12.** Subsection 4 of section 72 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3 and amended by 1978, chapter 4, section 15, is repealed and the following substituted therefor: s. 72 (4),
re-enacted

(4) Notwithstanding subsection 1, the maximum allowable axle unit weight for a single front axle shall not exceed 5,000 kilograms unless the driver of the vehicle or combination of vehicles has with him a verification in writing as to the manufacturer's gross axle weight rating for such single front axle. Idem

(5) The driver of a vehicle or combination of vehicles being operated on a Class A Highway who has the verification referred to in subsection 4 shall produce it when so demanded by a police officer or an officer appointed for carrying out the provisions of this Act, and, where it is so demanded and not produced, the driver shall be deemed to not have the verification. Production
of
verification

(6) Where subsection 4 does not apply because the driver has the verification referred to in subsection 4, then subject to subsection 1, the maximum allowable axle unit weight on the single front axle shall not exceed the manufacturer's gross axle weight rating. Maximum
allowable
axle unit
weight

- 13.** Subsection 13 of section 77 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended by striking out "section" in the third line and inserting in lieu thereof "subsection". s. 77 (13),
amended

- 14.** Section 82 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 123, section 21, 1975, chapter 78, section 7, 1977, chapter 19, section 3, 1977, chapter 54, section 12 and 1978, chapter 90, section 8, is repealed and the following substituted therefor: s. 82,
re-enacted

82.—(1) No person shall drive a motor vehicle at a rate of speed greater than, Rate of
speed

(a) 80 kilometres per hour,

(i) on a highway not within a city, town, village, police village or built-up area, or

(ii) on a highway designated by the Lieutenant Governor in Council as a controlled-access highway under *The Public Transportation and Highway*

R.S.O. 1970,
c. 201

Improvement Act, whether or not such a highway is within a city, town, village, police village or built-up area;

- (b) subject to clause *a*, 50 kilometres per hour on a highway within a city, town, village, police village or built-up area;
- (c) the rate of speed prescribed for motor vehicles on a highway in accordance with the provisions of subsection 2, 3, 4, 5 or 6;
- (d) the maximum rate of speed posted in a construction zone designated under subsection 7; or
- (e) the rate of speed prescribed for motor vehicles on a metropolitan road in accordance with section 82 of *The Municipality of Metropolitan Toronto Act*.

R.S.O. 1970.
c. 295

Rate of
speed by
by-law:

(2) The council of a municipality and the trustees of a police village may by by-law prescribe a rate of speed of 40, 50, 60, 70, 80, 90 or 100 kilometres per hour for motor vehicles driven on a highway or portion of a highway under its jurisdiction.

in public
parks

(3) The council of a municipality and the trustees of a police village may by by-law prescribe a lower rate of speed for motor vehicles driven in any public park or exhibition ground than is prescribed in subsection 1, but such lower rate of speed shall not be less than 20 kilometres per hour.

in school
zones

(4) The council of a municipality and the trustees of a police village may by by-law,

- (a) designate a portion of a highway under its jurisdiction that adjoins the entrance to or exit from a school and that is within 150 metres along the highway in either direction beyond the limits of the land used for the purposes of the school; and
- (b) prescribe a rate of speed of 40 kilometres per hour for motor vehicles driven on the portion of a highway so designated on days on which school is regularly held and prescribe the time or times between the hours of 8.00 a.m. and 5.00 p.m. at which such speed limit is effective.

on bridges

(5) The council of a municipality and the trustees of a police village may by by-law prescribe a lower rate of speed for motor vehicles passing over a bridge on a highway under its jurisdiction than is prescribed in subsection 1 or in a by-law passed under subsection 2, but such lower rate of speed shall not be less than 10

kilometres per hour and signs indicating the maximum rate of speed shall be posted in a conspicuous place at each approach to the bridge.

(6) The Minister may make regulations prescribing a rate of speed for, Rate of speed by regulation

(a) motor vehicles driven on a highway or portion of a highway within a provincial park;

(b) any class or classes of motor vehicles driven on the King's Highway or portion of the King's Highway whether or not the King's Highway is within a city, town, village or police village, and such rate of speed may be different for any period or periods of the day or night or direction of travel; and

(c) motor vehicles driven on a highway or portion of a highway in territory without municipal organization.

(7) An official of the Ministry authorized by the Minister in writing may designate any part of the King's Highway as a construction zone, and every construction zone shall be so marked by signs in accordance with the regulations. Construction zones

(8) A designation under subsection 7 is not a regulation within the meaning of *The Regulations Act*. R.S.O. 1970, c. 410 does not apply

(9) Signs posting the maximum rate of speed at which motor vehicles may be driven in a construction zone may be erected in accordance with the regulations by an official of the Ministry. Speed limit signs in construction zones

(10) No by-law passed under subsection 2, 4 or 5 or regulation made under clause *c* of subsection 6 becomes effective until the highway or portion thereof affected by the by-law or regulation, as the case may be, is signed in accordance with this Act and the regulations. By-laws, regulations effective when posted

(11) Where a by-law or regulation passed under this section or a by-law passed under section 82 of *The Municipality of Metropolitan Toronto Act* becomes effective, the rates of speed prescribed in subsection 1 do not apply to the highway or portion of the highway affected by the by-law or regulation. Exemption R.S.O. 1970, c. 295

(12) The speed limits prescribed under this section or any regulation or by-law passed under this section do not apply to, Fire department vehicles and police vehicles

(a) a motor vehicle of a municipal fire department while proceeding to a fire or responding to, but not returning from, a fire alarm or other emergency call; or

- (b) a motor vehicle while used by a person in the lawful performance of his duties as a police officer.

Penalty

(13) Every person who contravenes any of the provisions of this section or any by-law or regulation made under this section is guilty of an offence and on conviction is liable, where the rate of speed at which the motor vehicle was driven,

- (a) is less than 20 kilometres per hour over the maximum speed limit, to a fine of \$1.25 for each kilometre per hour that the motor vehicle was driven over the maximum speed limit;
- (b) is 20 kilometres per hour or more but less than 40 kilometres per hour over the maximum speed limit, to a fine of \$1.75 for each kilometre per hour that the motor vehicle was driven over the maximum speed limit;
- (c) is 40 kilometres per hour or more but less than 60 kilometres per hour over the maximum speed limit, to a fine of \$2.50 for each kilometre per hour that the motor vehicle was driven over the maximum speed limit; and
- (d) is 60 kilometres per hour or more over the maximum speed limit, to a fine of \$3.25 for each kilometre per hour that the motor vehicle was driven over the maximum speed limit.

Suspension of
licence on
conviction

(14) Where a court or judge has convicted a person for a contravention of any provision of this section and has determined that the person convicted was driving at a rate of speed of 50 or more kilometres per hour greater than the maximum speed limit, he may suspend the driver's licence of such person for a period of not more than thirty days.

s. 82a,
amended

- 15.** Section 82a of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 19, section 4, is amended by striking out "subsection 2, 3, 4, 5, 6, 7 or 12 of" in the fourth and fifth lines.

s. 84,
re-enacted

- 16.** Section 84 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 19, section 5, is repealed and the following substituted therefor:

Territory
without
municipal
organization

84.—(1) For the purpose of this Act, the Lieutenant Governor in Council may make regulations providing for the regulation and control of traffic on any highway or portion of a highway in territory without municipal organization where the highway is not under the jurisdiction and control of the Ministry.

(2) With respect to a highway that is not under the jurisdiction and control of the Ministry, no action shall be brought against the Crown for damages caused by any default of the Ministry in maintaining the signs regulating and controlling traffic in territories without municipal organization and the Crown is not liable for damages sustained by any person using a highway in territory without municipal organization.

Liability
for damages

17. Section 93 of the said Act is repealed and the following substituted therefor:

s. 93.
re-enacted

93.—(1) In this section, “centre line” means,

Interpre-
tation

- (a) in the case of a highway on which traffic is permitted to move in opposing directions, the marked line or median that divides traffic moving in opposing directions on the highway or, where there is no marked line or median, the centre of the roadway; and
- (b) in the case of a highway designated for the use of one-way traffic, the left curb or edge of the roadway.

(2) Where a driver or operator of a vehicle intends to turn to the right into an intersecting highway, he shall, where the highway on which he is driving has marked lanes for traffic, approach the intersection within the right-hand lane or, where it has no such marked lanes, by keeping immediately to the left of the right curb or edge of the roadway and he shall make the right turn by entering the right-hand lane of the intersecting highway where such lane is marked or, where no such lane is marked, by keeping immediately to the left of the right curb or edge of the roadway being entered.

Turns;
right at
intersection

(3) Notwithstanding subsection 2, where more than one lane of a highway has been designated as a right-turn lane, the driver or operator of a vehicle intending to turn to the right into an intersecting highway shall approach the intersection in one of such lanes and leave the intersection in the lane of the intersecting highway that corresponds to the lane from which the turn was commenced.

right, where
multiple
lanes

(4) No driver or operator of a vehicle in an intersection shall turn left across the path of a vehicle approaching from the opposite direction unless he has afforded a reasonable opportunity to the driver or operator of the approaching vehicle to avoid a collision.

left, across
path of
approaching
vehicle

(5) Where a driver or operator of a vehicle intends to turn to the left into an intersecting highway, he shall, where the highway on which he is driving has marked lanes for traffic, approach the intersection within the left-hand lane provided for the use of

left, at
intersection

traffic moving in the direction in which his vehicle is proceeding or, where it has no such marked lanes, by keeping immediately to the right of the centre line of the highway and he shall make the left turn by entering the intersection to the right of the centre line or its extension and by leaving the intersection in the left-hand lane provided for the use of traffic moving in the direction in which his vehicle is proceeding where such lane is marked or, where no such lane is marked, by passing immediately to the right of the centre line of the intersecting highway.

left, where
multiple
lanes

(6) Notwithstanding subsection 5, where more than one lane of a highway has been designated as a left-turn lane, the driver or operator of a vehicle intending to turn to the left into an intersecting highway shall approach the intersection in one of such lanes and leave the intersection in the lane of the intersecting highway that corresponds to the lane from which the turn was commenced.

s. 101,
amended

- 18.** Section 101 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 123, section 27, is further amended by inserting after "sections" in the first line "93".

s. 128r (1),
re-enacted

- 19.** Subsection 1 of section 128a of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 19, section 19, is repealed and the following substituted therefor:

Prohibiting
commercial
vehicles in
left lane

(1) The council of a municipality may by by-law prohibit the operation of,

(a) a commercial motor vehicle other than a bus; or

(b) any combination of a commercial motor vehicle and a towed vehicle,

that exceeds 6.5 metres in length, in the left lane of any highway under its jurisdiction that has three or more lanes for traffic in each direction and on which the maximum speed limit is 80 kilometres per hour or more.

s. 147,
re-enacted

- 20.** Section 147 of the said Act, as amended by the Statutes of Ontario, 1975 (2nd Session), chapter 14, section 2 and 1976, chapter 37, section 18, is repealed and the following substituted therefor:

Vehicle
owner
may be
convicted

147.—(1) Subject to subsection 2, the owner of a vehicle may be charged with and convicted of an offence under this Act or the regulations or any municipal by-law regulating traffic for which the driver of the vehicle is subject to be charged unless, at the time of the offence, the vehicle was in the possession of some person other than the owner without the owner's consent and on conviction the owner is liable to the penalty prescribed for the offence.

(2) The owner of a vehicle, except when he is also the driver, shall not be convicted for a contravention of any of the provisions of subsection 3 or 6 of section 63*a* or of sections 82 to 114, 117, 120, 125 or 139 or any regulation or by-law made or passed thereunder or under subsection 8 of section 63*a* or of any of the provisions of any by-law passed under any Act regulating or prohibiting turns on a highway. When
owner not
liable

21. Section 152 of the said Act is amended by adding thereto the following subsection: s 152.
amended

(2) Notwithstanding subsection 1, every person, while a pedestrian or a person in a wheel-chair, who contravenes any provision of Part IX or any regulation made thereunder, is guilty of an offence and on conviction, where a penalty for the contravention is not otherwise provided for herein, is liable to a fine of not more than \$50. for
pedestrian
offences

22.—(1) This Act, except sections 7, 9, 14, 15, 16, 17, 18 and 19, comes into force on the day it receives Royal Assent. Commence-
ment

(2) Sections 7, 14, 15, 16 and 19 come into force on the 1st day of September, 1980. Idem

(3) Sections 9, 17 and 18 come into force on a day to be named by proclamation of the Lieutenant Governor. Idem

23. The short title of this Act is *The Highway Traffic Amendment Act*, 1980. Short title

An Act to amend
The Highway Traffic Act

1st Reading

May 1st, 1980

2nd Reading

June 18th, 1980

3rd Reading

June 19th, 1980

THE HON. J. W. SNOW
Minister of Transportation
and Communications

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Legislative Assembly

An Act to amend The Employment Standards Act, 1974

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of this Bill is to prohibit employees from interfering with the payment of tips and gratuities to waiters and waitresses.

BILL 66

1980

**An Act to amend
The Employment Standards Act, 1974**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Employment Standards Act, 1974*, being chapter 112, is amended by adding thereto the following section: s. 7a,
enacted

7a. No employer shall require that any portion of the tips or other gratuities paid to an employee by customers for service provided by the employee as a waiter or waitress be paid to any other employee in the establishment. Tips.
gratuities

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Employment Standards Amendment Act, 1980*. Short title

An Act to amend
The Employment Standards Act, 1974

1st Reading

May 1st, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Registration number 11

An Act to amend The Environmental Protection Act, 1971

MR. SWART



EXPLANATORY NOTE

The purpose of this Bill is to impose heavier fines upon offenders against waste management laws, and to establish a fund composed of a surcharge added to these fines to be used to rehabilitate abandoned waste disposal and landfill sites. The Bill contains amendments to *The Environmental Protection Act, 1971* requiring waste management law offenders to pay fines up to a maximum of \$10,000 a day, and requiring the same offenders to pay an additional surcharge of 5 percent of their fine, into an 'Abandoned Waste Dump Cleanup Fund' for the above-mentioned purposes.

BILL 67

1980

An Act to amend The Environmental Protection Act, 1971

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 47 of *The Environmental Protection Act, 1971*, being chapter 86, as amended by the Statutes of Ontario, 1972, chapter 106, section 17, is repealed and the following substituted therefor: s. 47,
re-enacted

47.—(1) Every person or municipality that contravenes any provision of this Part or the regulations or fails to comply with an order made under section 42 or 43 or fails to comply with any term or condition of a certificate of approval or provisional certificate of approval is guilty of an offence and on summary conviction of a fine of not more than \$10,000 for every day or part thereof upon which such offence occurs or continues. Offences

(2) In addition to the prescribed in subsection 1 section 47, there is to be paid by the offender on conviction, a surcharge of 5 per cent of the total of said fine. The prescribed percentage shall be set apart as a fund, to be known as the 'Abandoned Waste Dump Cleanup Fund', for the purposes mentioned in subsection 2 of section 105. Idem

2. Section 105 of the said Act is repealed and the following substituted therefor: s. 105,
re-enacted

105.—(1) When there is an unlicensed landfill site or waste disposal site, the Minister may, Abandoned
landfill
site or
waste
disposal
site

- (a) after receiving the consent of the person assessed for the land on which the landfill site or waste disposal site is located; and
- (b) after consultation with the regional municipality or county, as the case may be, and the local municipality in which the landfill site or waste disposal site is located,

declare the landfill site or waste disposal site abandoned for the purposes of subsection 2.

Idem

(2) The Minister may disburse any part of the fund mentioned in subsection 2 of section 47 for,

- (a) pre-program surveys or studies respecting the rehabilitation of abandoned landfill sites and waste disposal sites; or
- (b) the rehabilitation of abandoned landfill sites and waste disposal sites.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is *The Environmental Protection Amendment Act, 1980*.

An Act to amend
The Environmental Protection Act, 1971

1st Reading

May 6th, 1980

2nd Reading

3rd Reading

MR. SWART

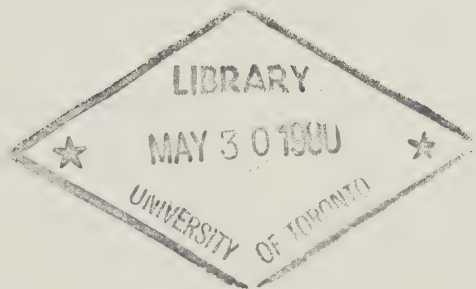
(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Legislative Assembly

An Act to protect the Reputation of Innocent
Persons from Untimely Publicity

MR. STONG



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to protect persons who have been charged with an offence from adverse publicity until such time as a court begins to hear evidence in the case or the person enters a plea of guilty to the offence.

BILL 68

1980

An Act to protect the Reputation of Innocent Persons from Untimely Publicity

WHEREAS the freedoms of speech and of press have been Preamble
enshrined in legislation; and whereas there must be a proper
balancing of the public's right to know with the obligation to
report any occurrences objectively, fairly and accurately; and
whereas it is recognized as an inherent principle of law and order
and fundamental to the preservation of the freedom and dignity of
every person that any person charged with a contravention of an
enactment of the Legislative Assembly of the Province of Ontario
or of the Parliament of Canada is innocent and so remains until
proven guilty in accordance with due process of the law;

Therefore, Her Majesty, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario, enacts as
follows:

1.—(1) No person shall publish or broadcast any report in Restriction
on
publication
of name of
accused
person
Ontario of an offence committed or alleged to have been commit-
ted under the law of Ontario or Canada that contains the name of
the person accused of committing the offence, the name of a
relative of the accused person, or any other information that is
reasonably likely to disclose the identity of the accused person
until,

- (a) the trial of the person has commenced; and
- (b) the person has pleaded guilty to the offence; or
- (c) the court has begun to receive evidence in respect of the
offence,

unless the accused person permits in writing such publication or
broadcasting.

(2) Nothing in this Act shall be construed to prohibit the full, Saving
responsible and factual publishing or broadcasting of a report of
any occurrence that does not disclose the identity of an accused
person.

- Offence **2.**—(1) Every person who knowingly contravenes section 1 of this Act and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.
- Corporation (2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.
- Commence-
ment **3.** This Act comes into force on the day it receives Royal Assent.
- Short title **4.** The short title of this Act is *The Innocent Persons Protection Act, 1980*.

An Act to protect the Reputation of
Innocent Persons from Untimely Publicity

1st Reading

May 8th, 1980

2nd Reading

3rd Reading

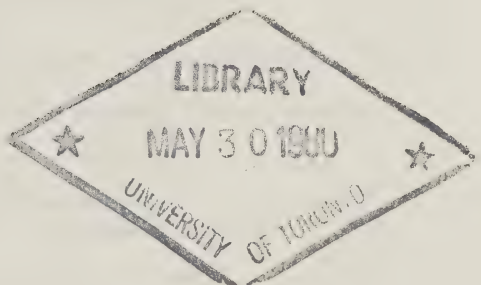
MR. STONG

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, *T*ONTARIO
29 ELIZABETH II, 1980 *File in the House*

An Act to amend The District Municipality of Muskoka Act

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs



EXPLANATORY NOTES

SECTION 1. The effect of the re-enactment is to add section 390*b* as a section of *The Municipal Act* that applies to the District Corporation; that section reads as follows:

*Insurance,
hospital-
ization, etc.*

390*b*. *The council of every municipality may pass by-laws for providing for any or all of the members of council any benefits that may be provided for the employees of a municipality under paragraphs 66 and 67 of section 352 and for any other benefits of a like nature that the council considers appropriate.*

SECTION 2. The subsection now reads as follows:

*Consolidat-
ing by-laws*

(9) *The District Council shall, on or before the 1st day of May, 1977, pass a by-law consolidating all by-laws relating to the district road system, and shall at intervals of not more than five years thereafter pass similar consolidating by-laws.*

The re-enactment deletes the time limits for the passing of consolidating road by-laws that are now found in the subsection.

SECTION 3. The subsection proposed to be repealed now reads as follows:

Application

(2) *Section 16 of The Homes for the Aged and Rest Homes Act applies in respect of applicants for admission to a home except that the authorization and statement in the prescribed forms referred to in clauses e and h of subsection 1 of such section 16 shall be signed by such person or persons as may be designated by resolution of the District Council.*

Changes to *The Homes for the Aged and Rest Homes Act* have made the subsection redundant.

SECTION 4. The subsection proposed to be added authorizes the District Corporation to purchase conditionally or to rent machinery or appliances for the purposes of the Corporation.

BILL 69

1980

An Act to amend The District Municipality of Muskoka Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 of section 17 of *The District Municipality of Muskoka Act*, being chapter 131 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1979, chapter 68, section 1, is repealed and the following substituted therefor:

(3) Sections 388, 389, 389a to 389e, 390, 390a, 390b and 391 of *The Municipal Act* apply with necessary modifications to the District Council.

s. 17 (3),
re-enacted

Idem
R.S.O. 1970,
c. 284
2. Subsection 9 of section 43 of the said Act is repealed and the following substituted therefor:

(9) The District Council shall, from time to time, pass a by-law consolidating all by-laws relating to the district road system.

s. 43 (9),
re-enacted

Consolidat-
ing by-law
3. Subsection 2 of section 76 of the said Act is repealed.

s. 76 (2),
repealed
4. Section 130 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 76, section 2, 1977, chapter 35, section 4 and 1979, chapter 68, section 7, is further amended by adding thereto the following subsection:

(3a) The District Corporation shall be deemed to be, and to have always been, a municipality for the purposes of section 455 of *The Municipal Act*.

s. 130,
amended

Purchasing
or
renting
machinery
R.S.O. 1970,
c. 284
5. This Act comes into force on the day it receives Royal Assent.

Commence-
ment
6. The short title of this Act is *The District Municipality of Muskoka Amendment Act, 1980*.

Short title

An Act to amend
The District Municipality of Muskoka Act

1st Reading

May 12th, 1980

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

(Government Bill)

3
6
17 BILL 69

4TH SESSION, 31ST LEGISLATURE, ¹ONTARIO
29 ELIZABETH II, 1980 ²*F. L. Wells*

An Act to amend The District Municipality of Muskoka Act

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs



An Act to amend The District Municipality of Muskoka Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 of section 17 of *The District Municipality of Muskoka Act*, being chapter 131 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1979, chapter 68, section 1, is repealed and the following substituted therefor:

(3) Sections 388, 389, 389*a* to 389*e*, 390, 390*a*, 390*b* and 391 of *The Municipal Act* apply with necessary modifications to the District Council.

s. 17 (3),
re-enacted

R.S.O. 1970,
c. 284
2. Subsection 9 of section 43 of the said Act is repealed and the following substituted therefor:

(9) The District Council shall, from time to time, pass a by-law consolidating all by-laws relating to the district road system.

s. 43 (9),
re-enacted

Consolidat-
ing by-law
3. Subsection 2 of section 76 of the said Act is repealed.

s. 76 (2),
repealed
4. Section 130 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 76, section 2, 1977, chapter 35, section 4 and 1979, chapter 68, section 7, is further amended by adding thereto the following subsection:

(3*a*) The District Corporation shall be deemed to be, and to have always been, a municipality for the purposes of section 455 of *The Municipal Act*.

s. 130,
amended

Purchasing
or
renting
machinery
R.S.O. 1970,
c. 284
5. This Act comes into force on the day it receives Royal Assent.

Commence-
ment
6. The short title of this Act is *The District Municipality of Muskoka Amendment Act, 1980*.

Short title

An Act to amend
The District Municipality of Muskoka Act

1st Reading

May 12th, 1980

2nd Reading

June 16th, 1980

3rd Reading

June 17th, 1980.

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Condominium Act, 1978

MR. WILDMAN

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill amends *The Condominium Act, 1978* to clarify that a condominium unit may consist of vacant land. The Bill also adds mobile homes to the definition of "buildings" in the Act. The effect of the amendment is to enable mobile home parks to be registered as condominium projects. The Bill, consequently, permits the development of mobile home condominium projects by enabling a developer to choose between designating a mobile home as a unit in itself or, alternately, designating a vacant lot as a unit upon which a mobile home may be placed.

BILL 70

1980

An Act to amend The Condominium Act, 1978

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clauses *c* and *z* of subsection 1 of section 1 of *The Condominium Act, 1978*, being chapter 84, are repealed and the following substituted therefor:

s. 1 (1)
(c, z),
re-enacted

 - (c) “buildings” means the buildings included in a property and includes a mobile home where the mobile home is affixed to the land;
 -
 - (z) “unit” means a part or parts of the land included in the description and designated as a unit by the description, and comprises the space enclosed by its boundaries and all the material parts of the land within this space at the time the declaration and description are registered and may consist of vacant land not contained within a building.
- (2) Subsection 1 of the said section 1 is amended by adding thereto the following clause:

s. 1,
amended

 - (oa) “mobile home” means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer or trailer otherwise designed.
2. Subsection 3 of section 3 of the said Act is amended by adding thereto the following clause:

s. 3 (3),
amended

 - (ca) a specification of the nature or type of structure which may be built or placed upon a unit where the unit consists of vacant land.

s. 4 (1),
re-enacted

- 3.** Subsection 1 of section 4 of the said Act is repealed and the following substituted therefor:

What
description
must
contain

(1) A description shall contain,

- (a) a plan of survey showing the perimeter of the horizontal surface of the land and the perimeter of the buildings, if any;
- (b) structural plans of the buildings, if any;
- (c) a specification of the boundaries of each unit by reference to the buildings, if any;
- (d) diagrams showing the shape and dimensions of each unit and the approximate location of each unit in relation to the other units and buildings;
- (e) a certificate of a surveyor that all buildings have been constructed and that the diagrams of the units are substantially accurate and substantially in accordance with the structural plans; and
- (f) a description of any interests appurtenant to the land that are included in the property,

prepared in accordance with the regulations.

Commence-
ment

- 4.** This Act comes into force on the day it receives Royal Assent.

Short title

- 5.** The short title of this Act is *The Condominium Amendment Act, 1980*.

An Act to amend
The Condominium Act, 1978

1st Reading

May 13th, 1980

2nd Reading

3rd Reading

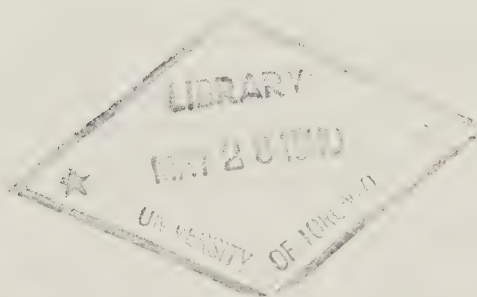
MR. WILDMAN

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Municipal Elections Act, 1977

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

The Bill effects a number of administrative improvements to the conduct of municipal elections.

Some of the principal features of the Bill are the following:

1. The period of time allotted for the revision of the preliminary list has been set back two days (ss. 6, 7).
2. The proceedings to be taken by a D.R.O. when names are added to the polling list under section 33, 51 or 56 of the Act are simplified (ss. 11, 20, 22).
3. The procedure on an application for a recount or final addition is revised to provide an opportunity for candidates affected thereby to be heard by the judge before he determines whether the application ought to be granted (s. 26 (1)).
4. The status of a candidate declared elected when proceedings are then launched for a recount or final addition is clarified (s. 26 (2)).

SECTION 1. "Minister" is now defined in paragraph 18 as the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs.

SECTION 2. The effect of the re-enactment is to add assistant returning officers as persons authorized to administer oaths for the purposes of the Act.

SECTIONS 3 AND 4. The qualification period for electors is set back two days so that the end of that period continues to coincide with the end of the revision period.

An Act to amend The Municipal Elections Act, 1977

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 18 of section 1 of *The Municipal Elections Act, 1977*, being chapter 62, is repealed and the following substituted therefor: s. 1, par. 18,
re-enacted

18. "Minister" means the Minister of Intergovernmental Affairs.

2. Subsection 2 of section 5 of the said Act is repealed and the following substituted therefor: s. 5 (2),
re-enacted

(2) The clerk may administer any oath required by this Act, and deputy returning officers, assistant returning officers and poll clerks may administer any such oath except an oath to be taken by the clerk. Idem

3. Section 12 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor: s. 12,
amended

12. A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and if, at any time during the period commencing on the Tuesday following the first Monday in September in an election year and ending on the Wednesday in October that precedes polling day by nineteen days, he, Electors,
resident

.

4. Section 13 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor: s. 13,
amended

13. A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and is not resident in such Electors,
non-resident

municipality at any time during the period commencing on the Tuesday following the first Monday in September in an election year and ending on the Wednesday in October that precedes polling day by nineteen days, but at any time during such period, he,

s. 14,
amended

5. Section 14 of the said Act is amended by adding thereto the following subsection:

Disqualifica-
tion of inmates
in penal
institutions,
etc.
R.S.O. 1970,
cc. 269, 271

(2) A person who on polling day is an inmate in a penal or correctional institution or a patient in a psychiatric facility in respect of whom a certificate of incompetence has been issued under *The Mental Health Act* or a declaration under *The Mental Incompetency Act* that he is a mentally incompetent person is in effect is disqualified from voting at any election.

s. 24 (b),
re-enacted

6. Clause *b* of section 24 of the said Act is repealed and the following substituted therefor:

(b) fix the places at which and the times when revision of the list will be undertaken.

s. 25 (2),
re-enacted

- 7.—(1) Subsection 2 of section 25 of the said Act is repealed and the following substituted therefor:

Time for
posting, etc.

(2) The day of posting copies of the preliminary list under subsection 1, of giving notice under section 24 and of commencing revision of the list shall be at least seven days before the last day for filing applications for revision.

s. 25 (3),
re-enacted

- (2) Subsection 3 of the said section 25 is repealed and the following substituted therefor:

Last day
for filing
applications
for revision of
preliminary
list

(3) The last day for the filing of applications for revision of the preliminary list shall be the nineteenth day immediately preceding polling day and such applications may be filed with the clerk during his normal office hours.

s. 25 (5) (b),
re-enacted

- (3) Clause *b* of subsection 5 of the said section 25 is repealed and the following substituted therefor:

(b) every member of the council of the municipality, every trustee of a police village all or part of which is in the municipality and every member of every local board the members of which are required to be elected at an election to be conducted by the clerk.

SECTION 5. The disqualification of prisoners and patients in mental hospitals is now to be found in section 55 (2) of the Act and reads as follows:

- (2) A person who on polling day is a prisoner in a penal or reform institution, or a patient in a mental hospital, or who has been transferred from a mental hospital to a home for special care as mentally incompetent is disqualified from voting at any election and no ballot shall be furnished to such a person.*

The provision is relocated to a more appropriate location in the Act and the terminology is up-dated.

SECTION 6. Clause *b* as it now reads is set out below showing underlined the words being deleted:

- (b) fix the places at which and the times when revision of the list will be undertaken, and, subject to subsection 2 of section 25, such revision shall commence no later than fourteen days after delivery of the list to the clerk under section 22.*

The commencement of the revision period will now be set out in section 25 (2) of the Act and is restated to require commencement at least seven days before the last day for filing applications for revision (See the note to section 7 (1) of the Bill).

SECTION 7.—Subsection 1. Subsection 2 of section 25 now reads:

- (2) The day of posting copies of the preliminary list under subsection 1 and of giving notice under section 24 shall be at least five days before the last day for filing applications for revision.*

Subsection 2. The effect of the re-enactment is to move back by two days the last day for filing applications for revision of the preliminary list; it now ends on the seventeenth rather than the nineteenth day preceeding polling day.

Subsection 3. The re-enactment has the effect of adding every member of every local board to the list of persons to whom the clerk is to furnish a copy of the preliminary list.

SECTION 8. The subsection as proposed to be re-enacted is set out below showing underlined the words that have been added:

- (1) *A person whose name has not been included in the preliminary list for a polling subdivision in a municipality or whose name has been included therein but the information relating to him set out therein is incorrect or whose name has been included therein as a non-resident and who is qualified to be an elector in more than one ward in the municipality may apply to the clerk or assistant revising officer of the municipality on or before the last day for filing applications for revision of the list to have his name included on the list or to have such information corrected, including having his name deleted from any list where it is incorrectly included, or to have his name deleted from the list and to have it entered in the list of another ward in which he or his spouse is the owner or tenant of land.*

The effect is to permit an elector to apply to the clerk and to have his name removed from the preliminary list when it has been incorrectly included therein.

SECTION 9. Section 28 of the Act sets out the procedure whereby any person may apply to have deleted from the preliminary list the name of any other person whom he alleges is not entitled to be on the list.

Subsection 7 as proposed to be re-enacted is set out below showing underlined the words to be added:

- (7) *Where, under this section, for any reason the name of a person is deleted from a preliminary list of electors, the clerk shall forthwith cause to be served personally on or sent by registered mail to that person at the address given in the preliminary list a notice indicating the reasons for which the person's name was deleted from the preliminary list and advising of the voting procedures under sections 33 and 56, but if the clerk is satisfied that the person cannot be found at the address in the preliminary list, or that the notice cannot be delivered to the person, no notice need be given.*

SECTION 10. Section 30 as proposed to be re-enacted is set out below showing underlined the words to be added:

30. *Upon the determination of all applications for revision of the preliminary list of electors for a municipality filed on or before the last day for filing applications for revision thereof, the clerk shall compile a statement of inclusions in, additions and changes to and deletions from the list, bearing the full name and address of each person who is the subject of the inclusion, addition, change or deletion, and shall sent a certified copy of such statement to each person specified in subsection 5 of section 25 and shall furnish two certified copies of such statement to every candidate for any office.*

SECTION 11.—Subsection 1. The subsection proposed to be repealed reads as follows:

- (4) *The clerk shall furnish a copy of each certificate issued under this section to the assessment commissioner before the first Monday in December in an election year.*

The certificate referred to is that authorizing the entry of a person's name on the polling list where the clerk is satisfied that the person is entitled to be an elector; the requirement of furnishing the certificate to the assessment commissioner is felt to be unnecessary.

Subsection 2. The recording procedure at the poll is simplified where a person votes under the authority of a certificate.

8. Subsection 1 of section 27 of the said Act is repealed and the following substituted therefor: s. 27 (1),
re-enacted

(1) A person whose name has not been included in the preliminary list for a polling subdivision in a municipality or whose name has been included therein but the information relating to him set out therein is incorrect or whose name has been included therein as a non-resident and who is qualified to be an elector in more than one ward in the municipality may apply to the clerk or assistant revising officer of the municipality on or before the last day for filing applications for revision of the list to have his name included on the list or to have such information corrected, including having his name deleted from any list where it is incorrectly included, or to have his name deleted from the list and to have it entered in the list of another ward in which he or his spouse is the owner or tenant of land. Application
to enter name
in or delete
name from
list or correct
information

9. Subsection 7 of section 28 of the said Act is repealed and the following substituted therefor: s. 28 (7),
re-enacted

(7) Where, under this section, for any reason the name of a person is deleted from a preliminary list of electors, the clerk shall forthwith cause to be served personally on or sent by registered mail to that person at the address given in the preliminary list a notice indicating the reasons for which the person's name was deleted from the preliminary list and advising of the voting procedures under sections 33 and 56, but if the clerk is satisfied that the person cannot be found at the address in the preliminary list, or that the notice cannot be delivered to the person, no notice need be given. Where
name deleted
from pre-
liminary list

10. Section 30 of the said Act is repealed and the following substituted therefor: s. 30,
re-enacted

30. Upon the determination of all applications for revision of the preliminary list of electors for a municipality filed on or before the last day for filing applications for revision thereof, the clerk shall compile a statement of inclusions in, additions and changes to and deletions from the list, bearing the full name and address of each person who is the subject of the inclusion, addition, change or deletion, and shall send a certified copy of such statement to each person specified in subsection 5 of section 25 and shall furnish two certified copies of such statement to every candidate for any office. Statement
of change

- 11.—(1) Subsection 4 of section 33 of the said Act is repealed. s. 33 (4),
repealed

(2) Subsection 5 of the said section 33 is repealed and the following substituted therefor: s. 33 (5),
re-enacted

Entry on
polling list

(5) The deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk the name and address of the person voting under the authority of a certificate issued under this section.

s. 35 (2),
re-enacted

12. Subsection 2 of section 35 of the said Act is repealed and the following substituted therefor:

Period for
nomination

(2) Persons may be nominated as candidates in an election between 9 o'clock in the forenoon and 5 o'clock in the afternoon of nomination day, but nothing in this section prevents a person from filing a nomination paper with the clerk during his normal office hours during the four days immediately preceding nomination day.

s. 36 (1),
amended

13.—(1) Subsection 1 of section 36 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

How
nominated

(1) A person may be nominated as a candidate for an office by filing, either personally or through his agent, in the office of the clerk, on the days and during the hours specified in subsection 2 of section 35, a nomination paper in prescribed form which,

s. 36 (1) (a),
re-enacted

(2) Clause *a* of subsection 1 of the said section 36, as re-enacted by the Statutes of Ontario, 1978, chapter 12, section 2, is repealed and the following substituted therefor:

(a) shall be signed by at least ten electors whose names are entered on the preliminary list of electors or who have made application to have their names included on the list and who are entitled to vote.

s. 36 (6),
re-enacted

(3) Subsection 6 of the said section 36 is repealed and the following substituted therefor:

Possession of
nomination
paper by
clerk

(6) After a nomination paper is certified by the clerk, it shall remain in the possession of the clerk but shall be open to inspection by any person during the normal office hours of the clerk.

s. 37 (5),
re-enacted

14. Subsection 5 of section 37 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 57, section 1, is repealed and the following substituted therefor:

Where
number of
candidates
nominated
insufficient

(5) Where, at 5 o'clock in the afternoon of the day following nomination day, the number of candidates who have been nominated for an office and have not withdrawn under subsection 1 of section 39 is not sufficient to fill the number of vacancies to which

SECTION 12. Nomination papers may now be filed with the clerk during the week preceding nomination day; under the re-enactment the period is shortened to the four days preceding nomination day.

SECTION 13.—Subsection 1. The effect of the re-enactment is to permit a person to file a nomination paper through his agent.

Subsection 2. The qualification of electors who may sign a nomination paper is clarified; the clause now reads as follows:

- (a) shall be signed by at least ten electors, either whose names are entered in the preliminary list of electors or who have furnished to the clerk an affidavit in the prescribed form that they are entitled to vote in the election to such office.*

Subsection 3. Subsection 6 now reads:

- (6) After a nomination paper is filed with the clerk it shall remain in the possession of the clerk.*

Provision is made for public inspection of nomination papers in the hands of the clerk.

SECTION 14. The effect of the re-enactment is to specifically permit the withdrawal of a candidate who has been nominated during the supplementary nomination period.

SECTION 15. The new subsection 2 governs the situation where a candidate for head of council dies before the close of the poll. If death occurs prior to 5 o'clock p.m. on nomination day additional nomination papers may be filed on the Wednesday following; if death occurs after that time a new election shall be held.

SECTION 16. As re-enacted, the subsection will permit the council, where a sufficient number of candidates have been elected to form a quorum, to appoint a qualified person or persons to fill the vacancy or vacancies on council.

SECTION 17. The new subsection will require ballots to indicate, where such is the case, that election to certain offices on the council of a lower-tier municipality carry with them offices on the council of the relevant upper-tier municipality.

candidates may be elected, subsection 1 of section 40 respecting acclamation applies to those candidates, but additional nominations for the remaining vacancies in the office in respect of which there was an insufficient number of candidates may be filed in the office of the clerk on the Wednesday following nomination day between the hours of 9 o'clock in the forenoon and 5 o'clock in the afternoon and the provisions of subsection 4 of this section and subsection 1 of section 39 apply, with necessary modifications.

- 15.** Section 38 of the said Act is amended by adding thereto the following subsection: s. 38,
amended

(2) Notwithstanding subsection 1, if a candidate nominated for election to the office of the head of the council of a municipality dies before the close of the poll for the election and, Death of
candidate
for head of
council

(a) prior to 5 o'clock on the afternoon of nomination day, additional nominations for the office may be filed in the office of the clerk on the Wednesday following nomination day between the hours of 9 o'clock in the forenoon and 5 o'clock in the afternoon and the provisions of subsection 4 of section 37 apply, with necessary modifications, as though the additional nomination papers had been filed on nomination day; or

(b) after 5 o'clock on the afternoon of nomination day, the election to such office is void and a new election shall be held to fill such office.

- 16.** Subsection 3 of section 40 of the said Act is repealed and the following substituted therefor: s. 40 (3),
re-enacted

(3) If the number of candidates declared to be elected to an office under subsection 1, 1a or 2 is less than the number to be elected to such office so there is a vacancy, a new election shall be held to fill the vacancy, except that where the number of candidates declared to be elected is sufficient to form a quorum, the vacancy may be filled in accordance with section 44 of *The Municipal Act*. Vacancy

R.S.O. 1970,
c. 284

- 17.** Section 43 of the said Act is amended by adding thereto the following subsection: s. 43,
amended

(8a) In a metropolitan, regional or district municipality, and in the County of Oxford, a ballot shall contain information showing the name of the office for which the election is being held and the name of any office on any other council which will be held as a result of the election to such office. Information
on ballot
in regional,
etc., muni-
cipalities

s. 46,
amended

- 18.** Section 46 of the said Act, as amended by the Statutes of Ontario, 1978, chapter 57, section 2, is further amended by adding thereto the following subsection:

Idem

(8) Notwithstanding clause *a* of subsection 7, the council of a municipality having more than 5,000 electors may, by by-law passed not later than the 1st day in September of an election year, provide that the clerk shall advise each resident elector of the location of the polling place at which that elector is to vote by mailing or causing to be delivered to the address of the elector a notice of the location of such polling place, which notice shall be directed to all the electors at that address.

s. 50 (1),
re-enacted

- 19.—**(1) Subsection 1 of section 50 of the said Act is repealed and the following substituted therefor:

Voting of
D.R.O.,
poll clerk,
etc., where
employed

(1) Subject to subsection 2, at the request of a person whose name is entered on the polling list for a polling place in a municipality who has been appointed a deputy returning officer, poll clerk, election assistant or constable at another polling place, the clerk of the municipality shall give him a certificate in the prescribed form that he is entitled to vote at the polling place at which he is stationed during the polling day.

s. 50 (3),
re-enacted

- (2) Subsection 3 of the said section 50 is repealed and the following substituted therefor:

When
certificate
may be
given

(3) The clerk shall not give a certificate under this section until he has ascertained by reference to the polling list or to a certificate under section 33 that the applicant is entitled to vote, and the person to whom the certificate has been given is not thereafter entitled to vote at the polling place at which, by the polling list or certificate under section 33, he had been entitled to vote.

s. 50 (5),
repealed

- (3) Subsection 5 of the said section 50 is repealed.

s. 51 (2),
re-enacted

- 20.** Subsection 2 of section 51 of the said Act is repealed and the following substituted therefor:

Entry on
polling list

(2) The deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk the name and address of the person voting under the authority of a certificate issued under section 50.

s. 55 (1),
par. 7,
re-enacted

- 21.—**(1) Paragraph 7 of subsection 1 of section 55 of the said Act is repealed and the following substituted therefor:

7. If such person takes the oath, the deputy returning officer shall enter or cause to be entered opposite such

SECTION 18. The new subsection will permit municipalities of the size mentioned to send one notice of the polling place location directed to all electors who reside at a common address.

SECTION 19.—Subsection 1. The effect of the re-enactment is to require the certificate given by the clerk to be in the prescribed form.

Subsection 2. Subsection 3 as it now reads is set out below showing underlined the words being deleted:

- (3) *The clerk shall not give a certificate under this section until he has ascertained by reference to the polling list or to a certificate under section 33 that the applicant is entitled to vote, and after giving the certificate he shall forthwith give notice in writing thereof to the deputy returning officer for the polling place at which the applicant is by the polling list or certificate under section 33 to be entitled to vote, and the person to whom the certificate has been given is not thereafter entitled to vote at such polling place.*

The deletion of that requirement along with the proposed repeal of subsection 5 of section 50 of the Act will simplify the procedures involved in permitting election staff to vote where stationed.

Subsection 3. The subsection proposed to be repealed reads as follows:

- (5) *The clerk shall keep a list in which he shall enter before he delivers a certificate under this section,*

- (a) the name and residence of the person to whom he gives the certificate;*
- (b) the polling place at which the person is authorized to vote under the certificate;*
- (c) the polling place at which the person appears by the polling list to be entitled to vote;*
- (d) whether the certificate is granted to such person as deputy returning officer, poll clerk, election assistant or constable; and*
- (e) if a certificate is refused, the name of the person applying for the certificate with the grounds of refusal,*

and the list shall be open to inspection by any candidate scrutineer or elector.

See the Note to subsection 2 to this section of the Bill.

SECTION 20. Subsection 2 now reads:

- (2) *The deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk opposite the name and residence of the person voting under the authority of a certificate, the words "Voted under Certificate".*

The entering of the words "Voted under Certificate" is dispensed with.

SECTION 21.—Subsection 1. A typographical error in referring to the clerk, rather than the poll clerk, is corrected.

Subsection 2. See the Note to section 5 of the Bill.

SECTION 22.—Subsection 1. The subsection sets out the duty of the D.R.O. when an elector votes after taking a declaration at the polling place; the reference to the address of the elector is new.

Subsection 2. The subsection proposed to be repealed reads as follows:

- (3) *The deputy returning officer shall furnish a copy of each such declaration to the clerk who shall, in turn, furnish it to the assessment commissioner before the first Monday in December in an election year.*

The furnishing of the declaration to the assessment commissioner is felt to be unnecessary.

SECTION 23. The subsection now refers to the presence of the candidates and their scrutineers; the re-enactment changes the reference to read the candidates or their scrutineers.

SECTION 24. Subsection 6 now reads:

- (6) *Subject to section 69, a deputy returning officer, after the close of the poll, shall not under any circumstances take, or allow to be taken, the ballot box to his home, house, office or place of business, or to any house or place except the office of the clerk.*

Under the subsection as re-enacted the clerk may direct the ballot box to be taken to some place other than his office.

SECTION 25. The subsection now permits a sealed ballot box to be re-opened when documents have been placed in it in error; as re-enacted it will permit the box to be re-opened when documents have in error not been placed in it.

SECTION 26.—Subsection 1. As re-enacted the subsection will require an applicant for a recount or final addition to serve notice of his application on the other affected candidates and the clerk.

Subsection 2. The subsections proposed to be added clarify the right of a candidate declared elected to hold office pending a recount and provide that the decisions of a council or local board are not affected by reason of the participation of a member subsequently declared not entitled to sit.

person's name on the polling list maintained by the poll clerk, the word "*Sworn*" or "*Affirmed*" according to the fact, shall put his initials on the back of the ballot paper, so placed that when the ballot is folded they can be seen without opening it, and shall deliver the ballot paper to such person.

(2) Subsection 2 of the said section 55 is repealed. s. 55 (2),
repealed

22.—(1) Subsection 2 of section 56 of the said Act is repealed and the following substituted therefor: s. 56 (2),
re-enacted

(2) The deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk the name and address of the elector. Idem

(2) Subsection 3 of the said section 56 is repealed. s. 56 (3),
repealed

23. Subsection 8 of section 66 of the said Act is repealed and the following substituted therefor: s. 66 (8),
re-enacted

(8) On the regular polling day for an election, after the close of polling, the deputy returning officer shall, in the presence of such candidates for office at the election or their scrutineers as are present at the hour fixed for the closing of the poll, open the ballot boxes for the advance poll, count the votes and perform all other duties required of deputy returning officers by this Act. Opening of
ballot boxes
for advance
poll

24. Subsection 6 of section 78 of the said Act is repealed and the following substituted therefor: s. 78 (6),
re-enacted

(6) Subject to section 69, a deputy returning officer, after the close of the poll, shall not under any circumstances take, or allow to be taken, the ballot box to any place except the office of the clerk, or to such other place as the clerk has in writing directed. Where D.R.O.
to take
ballot box

25. Subsection 2 of section 80 of the said Act is repealed and the following substituted therefor: s. 80 (2),
re-enacted

(2) Where the documents specified in subsection 1 of section 78 are in error omitted from or placed in the ballot box, the clerk may open such ballot box or boxes in the presence of the deputy returning officer concerned, and having corrected the error or after having recovered or ascertained the meaning of the statement, as the case may be, the box shall be resealed by the deputy returning officer in the presence of the clerk and by the clerk. Opening box
when docu-
ments
omitted from
or
placed in box
in error

26.—(1) Subsection 2 of section 83 of the said Act is repealed and the following substituted therefor: s. 83 (2),
re-enacted

Where
recount
desirable

(2) If, within fourteen days after the declaration by a clerk of a result of an election, upon an application of an elector it is made to appear by affidavit to a judge that the votes have been improperly counted or any ballot paper has been improperly rejected or that an incorrect statement of the number of votes cast for any candidate or for the affirmative or negative on any by-law or question has been made or that the votes have been improperly added up, and if within that time the applicant has served a copy of the application, including his affidavit, upon each candidate involved in the election which is the subject of the application, and upon the clerk, and has given security for the costs in connection with the recount or final addition of any candidate declared elected in the amount of \$100 in legal tender or if at any time within four weeks after such declaration the council of the municipality or a school board has by resolution declared that a recount or final addition is desirable in the public interest, the judge shall appoint a date and time and place to recount or make a final addition of the votes cast at the election, and shall notify in writing the clerk who made the declaration at least ten days prior to the date set for the recount or final addition.

s. 83,
amended

(2) The said section 83 is amended by adding thereto the following subsections:

Right to sit
pending
recount
or final
addition

(12) Any candidate declared elected is entitled to sit on the council or board notwithstanding that an application for a recount or final addition has been brought under this section, but where the recount or final addition determines that some other person was elected, such person is, notwithstanding that an appeal is pending, entitled to take his seat and to sit and vote until the appeal is disposed of.

Decisions
not affected

(13) The decisions of a council or local board reached with the participation of a member or members who is or are subsequently declared to be not entitled to sit on council shall not in any way be affected on the grounds of the participation of such member or members.

Commence-
ment

27. This Act comes into force on the day it receives Royal Assent.

Short title

28. The short title of this Act is *The Municipal Elections Amendment Act, 1980*.

An Act to amend
The Municipal Elections Act, 1977

1st Reading

May 15th, 1980

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

(Government Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Municipal Elections Act, 1977

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

(Reprinted as amended by the Committee of the Whole House)

TORONTO

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EXPLANATORY NOTES

The Bill effects a number of administrative improvements to the conduct of municipal elections.

Some of the principal features of the Bill are the following:

1. The period of time allotted for the revision of the preliminary list has been set back two days (ss. 6, 7).
2. The proceedings to be taken by a D.R.O. when names are added to the polling list under section 33, 51 or 56 of the Act are simplified (ss. 11, 20, 22).
3. The procedure on an application for a recount or final addition is revised to provide an opportunity for candidates affected thereby to be heard by the judge before he determines whether the application ought to be granted (s. 26 (1)).
4. The status of a candidate declared elected when proceedings are then launched for a recount or final addition is clarified (s. 26 (2)).

SECTION 1. "Minister" is now defined in paragraph 18 as the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs.

SECTION 2. The effect of the re-enactment is to add assistant returning officers as persons authorized to administer oaths for the purposes of the Act.

SECTIONS 3 AND 4. The qualification period for electors is set back two days so that the end of that period continues to coincide with the end of the revision period.

An Act to amend The Municipal Elections Act, 1977

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 18 of section 1 of *The Municipal Elections Act, 1977*, being chapter 62, is repealed and the following substituted therefor: s. 1, par. 18,
re-enacted

18. "Minister" means the Minister of Intergovernmental Affairs.

2. Subsection 2 of section 5 of the said Act is repealed and the following substituted therefor: s. 5 (2),
re-enacted

(2) The clerk may administer any oath required by this Act, and deputy returning officers, assistant returning officers and poll clerks may administer any such oath except an oath to be taken by the clerk. Idem

3. Section 12 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor: s. 12,
amended

12. A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and if, at any time during the period commencing on the Tuesday following the first Monday in September in an election year and ending on the Wednesday in October that precedes polling day by nineteen days, he, Electors,
resident

4. Section 13 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor: s. 13,
amended

13. A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and is not resident in such Electors,
non-resident

municipality at any time during the period commencing on the Tuesday following the first Monday in September in an election year and ending on the Wednesday in October that precedes polling day by nineteen days, but at any time during such period, he,

s. 14,
amended

5. Section 14 of the said Act is amended by adding thereto the following subsection:

Disqualifica-
tion of inmates
in penal
institutions,
etc.
R.S.O. 1970,
cc. 269, 271

(2) A person who on polling day is an inmate in a penal or correctional institution or a patient in a psychiatric facility in respect of whom a certificate of incompetence has been issued under *The Mental Health Act* or a declaration under *The Mental Incompetency Act* that he is a mentally incompetent person is in effect is disqualified from voting at any election.

s. 24 (b),
re-enacted

6. Clause *b* of section 24 of the said Act is repealed and the following substituted therefor:

(b) fix the places at which and the times when revision of the list will be undertaken.

s. 25 (2),
re-enacted

- 7.—(1) Subsection 2 of section 25 of the said Act is repealed and the following substituted therefor:

Time for
posting, etc.

(2) The day of posting copies of the preliminary list under subsection 1, of giving notice under section 24 and of commencing revision of the list shall be at least seven days before the last day for filing applications for revision.

s. 25 (3),
re-enacted

- (2) Subsection 3 of the said section 25 is repealed and the following substituted therefor:

Last day
for filing
applications
for revision of
preliminary
list

(3) The last day for the filing of applications for revision of the preliminary list shall be the nineteenth day immediately preceding polling day and such applications may be filed with the clerk during his normal office hours.

s. 25 (5) (b),
re-enacted

- (3) Clause *b* of subsection 5 of the said section 25 is repealed and the following substituted therefor:

(b) every member of the council of the municipality, every trustee of a police village all or part of which is in the municipality and every member of every local board the members of which are required to be elected at an election to be conducted by the clerk.

SECTION 5. The disqualification of prisoners and patients in mental hospitals is now to be found in section 55 (2) of the Act and reads as follows:

- (2) *A person who on polling day is a prisoner in a penal or reform institution, or a patient in a mental hospital, or who has been transferred from a mental hospital to a home for special care as mentally incompetent is disqualified from voting at any election and no ballot shall be furnished to such a person.*

The provision is relocated to a more appropriate location in the Act and the terminology is up-dated.

SECTION 6. Clause *b* as it now reads is set out below showing underlined the words being deleted:

- (b) *fix the places at which and the times when revision of the list will be undertaken, and, subject to subsection 2 of section 25, such revision shall commence no later than fourteen days after delivery of the list to the clerk under section 22.*

The commencement of the revision period will now be set out in section 25 (2) of the Act and is restated to require commencement at least seven days before the last day for filing applications for revision (See the note to section 7 (1) of the Bill).

SECTION 7.—Subsection 1. Subsection 2 of section 25 now reads:

- (2) *The day of posting copies of the preliminary list under subsection 1 and of giving notice under section 24 shall be at least five days before the last day for filing applications for revision.*

Subsection 2. The effect of the re-enactment is to move back by two days the last day for filing applications for revision of the preliminary list; it now ends on the seventeenth rather than the nineteenth day preceeding polling day.

Subsection 3. The re-enactment has the effect of adding every member of every local board to the list of persons to whom the clerk is to furnish a copy of the preliminary list.

SECTION 8. The subsection as proposed to be re-enacted is set out below showing underlined the words that have been added:

- (1) *A person whose name has not been included in the preliminary list for a polling subdivision in a municipality or whose name has been included therein but the information relating to him set out therein is incorrect or whose name has been included therein as a non-resident and who is qualified to be an elector in more than one ward in the municipality may apply to the clerk or assistant revising officer of the municipality on or before the last day for filing applications for revision of the list to have his name included on the list or to have such information corrected, including having his name deleted from any list where it is incorrectly included, or to have his name deleted from the list and to have it entered in the list of another ward in which he or his spouse is the owner or tenant of land.*

The effect is to permit an elector to apply to the clerk and to have his name removed from the preliminary list when it has been incorrectly included therein.

SECTION 9. Section 28 of the Act sets out the procedure whereby any person may apply to have deleted from the preliminary list the name of any other person whom he alleges is not entitled to be on the list.

Subsection 7 as proposed to be re-enacted is set out below showing underlined the words to be added:

- (7) *Where, under this section, for any reason the name of a person is deleted from a preliminary list of electors, the clerk shall forthwith cause to be served personally on or sent by registered mail to that person at the address given in the preliminary list a notice indicating the reasons for which the person's name was deleted from the preliminary list and advising of the voting procedures under sections 33 and 56, but if the clerk is satisfied that the person cannot be found at the address in the preliminary list, or that the notice cannot be delivered to the person, no notice need be given.*

SECTION 10. Section 30 as proposed to be re-enacted is set out below showing underlined the words to be added:

30. *Upon the determination of all applications for revision of the preliminary list of electors for a municipality filed on or before the last day for filing applications for revision thereof, the clerk shall compile a statement of inclusions in, additions and changes to and deletions from the list, bearing the full name and address of each person who is the subject of the inclusion, addition, change or deletion, and shall sent a certified copy of such statement to each person specified in subsection 5 of section 25 and shall furnish two certified copies of such statement to every candidate for any office.*

SECTION 11.—Subsection 1. The subsection proposed to be repealed reads as follows:

- (4) *The clerk shall furnish a copy of each certificate issued under this section to the assessment commissioner before the first Monday in December in an election year.*

The certificate referred to is that authorizing the entry of a person's name on the polling list where the clerk is satisfied that the person is entitled to be an elector; the requirement of furnishing the certificate to the assessment commissioner is felt to be unnecessary.

Subsection 2. The recording procedure at the poll is simplified where a person votes under the authority of a certificate.

8. Subsection 1 of section 27 of the said Act is repealed and the following substituted therefor: s. 27 (1),
re-enacted

(1) A person whose name has not been included in the preliminary list for a polling subdivision in a municipality or whose name has been included therein but the information relating to him set out therein is incorrect or whose name has been included therein as a non-resident and who is qualified to be an elector in more than one ward in the municipality may apply to the clerk or assistant revising officer of the municipality on or before the last day for filing applications for revision of the list to have his name included on the list or to have such information corrected, including having his name deleted from any list where it is incorrectly included, or to have his name deleted from the list and to have it entered in the list of another ward in which he or his spouse is the owner or tenant of land.

Application to enter name in or delete name from list or correct information

9. Subsection 7 of section 28 of the said Act is repealed and the following substituted therefor: s. 28 (7),
re-enacted

(7) Where, under this section, for any reason the name of a person is deleted from a preliminary list of electors, the clerk shall forthwith cause to be served personally on or sent by registered mail to that person at the address given in the preliminary list a notice indicating the reasons for which the person's name was deleted from the preliminary list and advising of the voting procedures under sections 33 and 56, but if the clerk is satisfied that the person cannot be found at the address in the preliminary list, or that the notice cannot be delivered to the person, no notice need be given.

Where name deleted from preliminary list

10. Section 30 of the said Act is repealed and the following substituted therefor: s. 30,
re-enacted

30. Upon the determination of all applications for revision of the preliminary list of electors for a municipality filed on or before the last day for filing applications for revision thereof, the clerk shall compile a statement of inclusions in, additions and changes to and deletions from the list, bearing the full name and address of each person who is the subject of the inclusion, addition, change or deletion, and shall send a certified copy of such statement to each person specified in subsection 5 of section 25 and shall furnish two certified copies of such statement to every candidate for any office.

Statement of change

- 11.—(1) Subsection 4 of section 33 of the said Act is repealed. s. 33 (4),
repealed

(2) Subsection 5 of the said section 33 is repealed and the following substituted therefor: s. 33 (5),
re-enacted

Entry on
polling list

(5) The deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk the name and address of the person voting under the authority of a certificate issued under this section.

s. 35 (2),
re-enacted

12. Subsection 2 of section 35 of the said Act is repealed and the following substituted therefor:

Period for
nomination

(2) Persons may be nominated as candidates in an election between 9 o'clock in the forenoon and 5 o'clock in the afternoon of nomination day, but nothing in this section prevents a person from filing a nomination paper with the clerk during his normal office hours during the four days immediately preceding nomination day.

s. 36 (1),
amended

13.—(1) Subsection 1 of section 36 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

How
nominated

(1) A person may be nominated as a candidate for an office by filing, either personally or through his agent, in the office of the clerk, on the days and during the hours specified in subsection 2 of section 35, a nomination paper in prescribed form which,

s. 36 (1) (a),
re-enacted

(2) Clause *a* of subsection 1 of the said section 36, as re-enacted by the Statutes of Ontario, 1978, chapter 12, section 2, is repealed and the following substituted therefor:

(a) shall be signed by at least ten electors whose names are entered on the preliminary list of electors or who have made application to have their names included on the list and who are entitled to vote in the election to such office.

s. 36 (6),
re-enacted

(3) Subsection 6 of the said section 36 is repealed and the following substituted therefor:

Possession of
nomination
paper by
clerk

(6) After a nomination paper is certified by the clerk, it shall remain in the possession of the clerk but shall be open to inspection by any person during the normal office hours of the clerk.

s. 37 (5),
re-enacted

14. Subsection 5 of section 37 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 57, section 1, is repealed and the following substituted therefor:

Where
number of
candidates
nominated
insufficient

(5) Where, at 5 o'clock in the afternoon of the day following nomination day, the number of candidates who have been nominated for an office and have not withdrawn under subsection 1 of section 39 is not sufficient to fill the number of vacancies to which

SECTION 12. Nomination papers may now be filed with the clerk during the week preceding nomination day; under the re-enactment the period is shortened to the four days preceding nomination day.

SECTION 13.—Subsection 1. The effect of the re-enactment is to permit a person to file a nomination paper through his agent.

Subsection 2. The qualification of electors who may sign a nomination paper is clarified; the clause now reads as follows:

(a) shall be signed by at least ten electors, either whose names are entered in the preliminary list of electors or who have furnished to the clerk an affidavit in the prescribed form that they are entitled to vote in the election to such office.

Subsection 3. Subsection 6 now reads:

(6) After a nomination paper is filed with the clerk it shall remain in the possession of the clerk.

Provision is made for public inspection of nomination papers in the hands of the clerk.

SECTION 14. The effect of the re-enactment is to specifically permit the withdrawal of a candidate who has been nominated during the supplementary nomination period.

SECTION 15. The new subsection 2 governs the situation where a candidate for head of council dies before the close of the poll. If death occurs prior to 5 o'clock p.m. on nomination day additional nomination papers may be filed on the Wednesday following; if death occurs after that time a new election shall be held.

SECTION 16. As re-enacted, the subsection will permit the council, where a sufficient number of candidates have been elected to form a quorum, to appoint a qualified person or persons to fill the vacancy or vacancies on council.

SECTION 17. The new subsection will require ballots to indicate, where such is the case, that election to certain offices on the council of a lower-tier municipality carry with them offices on the council of the relevant upper-tier municipality.

candidates may be elected, subsection 1 of section 40 respecting acclamation applies to those candidates, but additional nominations for the remaining vacancies in the office in respect of which there was an insufficient number of candidates may be filed in the office of the clerk on the Wednesday following nomination day between the hours of 9 o'clock in the forenoon and 5 o'clock in the afternoon and the provisions of subsection 4 of this section and subsection 1 of section 39 apply, with necessary modifications.

- 15.** Section 38 of the said Act is amended by adding thereto the following subsection: s. 38,
amended

(2) Notwithstanding subsection 1, if a candidate nominated for election to the office of the head of the council of a municipality dies before the close of the poll for the election and, Death of
candidate
for head of
council

(a) prior to 5 o'clock on the afternoon of nomination day, additional nominations for the office may be filed in the office of the clerk on the Wednesday following nomination day between the hours of 9 o'clock in the forenoon and 5 o'clock in the afternoon and the provisions of subsection 4 of section 37 apply, with necessary modifications, as though the additional nomination papers had been filed on nomination day; or

(b) after 5 o'clock on the afternoon of nomination day, the election to such office is void and a new election shall be held to fill such office.

- 16.** Subsection 3 of section 40 of the said Act is repealed and the following substituted therefor: s. 40 (3),
re-enacted

(3) If the number of candidates declared to be elected to an office under subsection 1, 1a or 2 is less than the number to be elected to such office so there is a vacancy, a new election shall be held to fill the vacancy, except that where the number of candidates declared to be elected is sufficient to form a quorum, the vacancy may be filled in accordance with section 44 of *The Municipal Act*. Vacancy

R.S.O. 1970,
c. 284

- 17.** Section 43 of the said Act is amended by adding thereto the following subsection: s. 43,
amended

(8a) In a metropolitan, regional or district municipality, and in the County of Oxford, a ballot shall contain information showing the name of the office for which the election is being held and the name of any office on any other council which will be held as a result of the election to such office. Information
on ballot
in regional,
etc., muni-
cipalities

s. 46,
amended

- 18.** Section 46 of the said Act, as amended by the Statutes of Ontario, 1978, chapter 57, section 2, is further amended by adding thereto the following subsection:

Idem

(8) Notwithstanding clause *a* of subsection 7, the council of a municipality having more than 5,000 electors may, by by-law passed not later than the 1st day in September of an election year, provide that the clerk shall advise each resident elector of the location of the polling place at which that elector is to vote by mailing or causing to be delivered to the address of the elector a notice of the location of such polling place, which notice shall be directed to all the electors at that address.

s. 50 (1),
re-enacted

- 19.—**(1) Subsection 1 of section 50 of the said Act is repealed and the following substituted therefor:

Voting of
D.R.O.,
poll clerk,
etc., where
employed

(1) Subject to subsection 2, at the request of a person whose name is entered on the polling list for a polling place in a municipality who has been appointed a deputy returning officer, poll clerk, election assistant or constable at another polling place, the clerk of the municipality shall give him a certificate in the prescribed form that he is entitled to vote at the polling place at which he is stationed during the polling day.

s. 50 (3),
re-enacted

- (2) Subsection 3 of the said section 50 is repealed and the following substituted therefor:

When
certificate
may be
given

(3) The clerk shall not give a certificate under this section until he has ascertained by reference to the polling list or to a certificate under section 33 that the applicant is entitled to vote, and the person to whom the certificate has been given is not thereafter entitled to vote at the polling place at which, by the polling list or certificate under section 33, he had been entitled to vote.

s. 50 (5),
repealed

- (3) Subsection 5 of the said section 50 is repealed.

s. 51 (2),
re-enacted

- 20.** Subsection 2 of section 51 of the said Act is repealed and the following substituted therefor:

Entry on
polling list

(2) The deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk the name and address of the person voting under the authority of a certificate issued under section 50.

s. 55 (1),
par. 7,
re-enacted

- 21.—**(1) Paragraph 7 of subsection 1 of section 55 of the said Act is repealed and the following substituted therefor:

7. If such person takes the oath, the deputy returning officer shall enter or cause to be entered opposite such

SECTION 18. The new subsection will permit municipalities of the size mentioned to send one notice of the polling place location directed to all electors who reside at a common address.

SECTION 19.—Subsection 1. The effect of the re-enactment is to require the certificate given by the clerk to be in the prescribed form.

Subsection 2. Subsection 3 as it now reads is set out below showing underlined the words being deleted:

- (3) *The clerk shall not give a certificate under this section until he has ascertained by reference to the polling list or to a certificate under section 33 that the applicant is entitled to vote, and after giving the certificate he shall forthwith give notice in writing thereof to the deputy returning officer for the polling place at which the applicant is by the polling list or certificate under section 33 to be entitled to vote, and the person to whom the certificate has been given is not thereafter entitled to vote at such polling place.*

The deletion of that requirement along with the proposed repeal of subsection 5 of section 50 of the Act will simplify the procedures involved in permitting election staff to vote where stationed.

Subsection 3. The subsection proposed to be repealed reads as follows:

- (5) *The clerk shall keep a list in which he shall enter before he delivers a certificate under this section,*

- (a) the name and residence of the person to whom he gives the certificate;*
- (b) the polling place at which the person is authorized to vote under the certificate;*
- (c) the polling place at which the person appears by the polling list to be entitled to vote;*
- (d) whether the certificate is granted to such person as deputy returning officer, poll clerk, election assistant or constable; and*
- (e) if a certificate is refused, the name of the person applying for the certificate with the grounds of refusal,*

and the list shall be open to inspection by any candidate scrutineer or elector.

See the Note to subsection 2 to this section of the Bill.

SECTION 20. Subsection 2 now reads:

- (2) *The deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk opposite the name and residence of the person voting under the authority of a certificate, the words "Voted under Certificate".*

The entering of the words "Voted under Certificate" is dispensed with.

SECTION 21.—Subsection 1. A typographical error in referring to the clerk, rather than the poll clerk, is corrected.

Subsection 2. See the Note to section 5 of the Bill.

SECTION 22.—Subsection 1. The subsection sets out the duty of the D.R.O. when an elector votes after taking a declaration at the polling place; the reference to the address of the elector is new.

Subsection 2. The subsection proposed to be repealed reads as follows:

- (3) *The deputy returning officer shall furnish a copy of each such declaration to the clerk who shall, in turn, furnish it to the assessment commissioner before the first Monday in December in an election year.*

The furnishing of the declaration to the assessment commissioner is felt to be unnecessary.

SECTION 23. The subsection now refers to the presence of the candidates and their scrutineers; the re-enactment changes the reference to read the candidates or their scrutineers.

SECTION 24. Subsection 6 now reads:

- (6) *Subject to section 69, a deputy returning officer, after the close of the poll, shall not under any circumstances take, or allow to be taken, the ballot box to his home, house, office or place of business, or to any house or place except the office of the clerk.*

Under the subsection as re-enacted the clerk may direct the ballot box to be taken to some place other than his office.

SECTION 25. The subsection now permits a sealed ballot box to be re-opened when documents have been placed in it in error; as re-enacted it will permit the box to be re-opened when documents have in error not been placed in it.

SECTION 26.—Subsection 1. As re-enacted the subsection will require an applicant for a recount or final addition to serve notice of his application on the other affected candidates and the clerk.

Subsection 2. The subsections proposed to be added clarify the right of a candidate declared elected to hold office pending a recount and provide that the decisions of a council or local board are not affected by reason of the participation of a member subsequently declared not entitled to sit.

person's name on the polling list maintained by the poll clerk, the word "*Sworn*" or "*Affirmed*" according to the fact, shall put his initials on the back of the ballot paper, so placed that when the ballot is folded they can be seen without opening it, and shall deliver the ballot paper to such person.

(2) Subsection 2 of the said section 55 is repealed.

s. 55 (2),
repealed

22.—(1) Subsection 2 of section 56 of the said Act is repealed and the following substituted therefor:

s. 56 (2),
re-enacted

(2) The deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk the name and address of the elector.

Idem

(2) Subsection 3 of the said section 56 is repealed.

s. 56 (3),
repealed

23. Subsection 8 of section 66 of the said Act is repealed and the following substituted therefor:

s. 66 (8),
re-enacted

(8) On the regular polling day for an election, after the close of polling, the deputy returning officer shall, in the presence of such candidates for office at the election or their scrutineers as are present at the hour fixed for the closing of the poll, open the ballot boxes for the advance poll, count the votes and perform all other duties required of deputy returning officers by this Act.

Opening of
ballot boxes
for advance
poll

24. Subsection 6 of section 78 of the said Act is repealed and the following substituted therefor:

s. 78 (6),
re-enacted

(6) Subject to section 69, a deputy returning officer, after the close of the poll, shall not under any circumstances take, or allow to be taken, the ballot box to any place except the office of the clerk, or to such other place as the clerk has in writing directed.

Where D.R.O.
to take
ballot box

25. Subsection 2 of section 80 of the said Act is repealed and the following substituted therefor:

s. 80 (2),
re-enacted

(2) Where the documents specified in subsection 1 of section 78 are in error omitted from or placed in the ballot box, the clerk may open such ballot box or boxes in the presence of the deputy returning officer concerned, and having corrected the error or after having recovered or ascertained the meaning of the statement, as the case may be, the box shall be resealed by the deputy returning officer in the presence of the clerk and by the clerk.

Opening box
when docu-
ments
omitted from
or
placed in box
in error

26.—(1) Subsection 2 of section 83 of the said Act is repealed and the following substituted therefor:

s. 83 (2),
re-enacted

Where
recount
desirable

(2) If, within fourteen days after the declaration by a clerk of a result of an election, upon an application of an elector it is made to appear by affidavit to a judge that the votes have been improperly counted or any ballot paper has been improperly rejected or that an incorrect statement of the number of votes cast for any candidate or for the affirmative or negative on any by-law or question has been made or that the votes have been improperly added up, and if within that time the applicant has served a copy of the application, including his affidavit, upon each candidate involved in the election which is the subject of the application, and upon the clerk, and has given security for the costs in connection with the recount or final addition of any candidate declared elected in the amount of \$100 in legal tender or if at any time within four weeks after such declaration the council of the municipality or a school board has by resolution declared that a recount or final addition is desirable in the public interest, the judge shall appoint a date and time and place to recount or make a final addition of the votes cast at the election, and shall notify in writing the clerk who made the declaration at least ten days prior to the date set for the recount or final addition.

s. 83,
amended

(2) The said section 83 is amended by adding thereto the following subsections:

Right to sit
pending
recount
or final
addition

(12) Any candidate declared elected is entitled to sit on the council or board notwithstanding that an application for a recount or final addition has been brought under this section, but where the recount or final addition determines that some other person was elected, such person is, notwithstanding that an appeal is pending, entitled to take his seat and to sit and vote until the appeal is disposed of.

Decisions
not affected

(13) The decisions of a council or local board reached with the participation of a member or members who is or are subsequently declared to be not entitled to sit on council shall not in any way be affected on the grounds of the participation of such member or members.

Commence-
ment

27. This Act comes into force on the day it receives Royal Assent.

Short title

28. The short title of this Act is *The Municipal Elections Amendment Act, 1980*.

An Act to amend
The Municipal Elections Act, 1977

1st Reading

May 15th, 1980

2nd Reading

June 6th, 1980

3rd Reading

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

(Reprinted as amended by
the Committee of the Whole House)

BILL 71

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29 ELIZABETH II, 1980

Legislative Assembly

An Act to amend The Municipal Elections Act, 1977

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

TORONTO

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BILL 71

1980

An Act to amend The Municipal Elections Act, 1977

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 18 of section 1 of *The Municipal Elections Act, 1977*, being chapter 62, is repealed and the following substituted therefor: s. 1, par. 18,
re-enacted

18. "Minister" means the Minister of Intergovernmental Affairs.

2. Subsection 2 of section 5 of the said Act is repealed and the following substituted therefor: s. 5 (2),
re-enacted

(2) The clerk may administer any oath required by this Act, and deputy returning officers, assistant returning officers and poll clerks may administer any such oath except an oath to be taken by the clerk. Idem

3. Section 12 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor: s. 12,
amended

12. A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and if, at any time during the period commencing on the Tuesday following the first Monday in September in an election year and ending on the Wednesday in October that precedes polling day by nineteen days, he, Electors,
resident

4. Section 13 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor: s. 13,
amended

13. A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and is not resident in such Electors,
non-resident

municipality at any time during the period commencing on the Tuesday following the first Monday in September in an election year and ending on the Wednesday in October that precedes polling day by nineteen days, but at any time during such period, he,

s. 14,
amended

5. Section 14 of the said Act is amended by adding thereto the following subsection:

Disqualifica-
tion of inmates
in penal
institutions,
etc.
R.S.O. 1970,
cc. 269, 271

(2) A person who on polling day is an inmate in a penal or correctional institution or a patient in a psychiatric facility in respect of whom a certificate of incompetence has been issued under *The Mental Health Act* or a declaration under *The Mental Incompetency Act* that he is a mentally incompetent person is in effect is disqualified from voting at any election.

s. 24 (b),
re-enacted

6. Clause *b* of section 24 of the said Act is repealed and the following substituted therefor:

(b) fix the places at which and the times when revision of the list will be undertaken.

s. 25 (2),
re-enacted

- 7.—(1) Subsection 2 of section 25 of the said Act is repealed and the following substituted therefor:

Time for
posting, etc.

(2) The day of posting copies of the preliminary list under subsection 1, of giving notice under section 24 and of commencing revision of the list shall be at least seven days before the last day for filing applications for revision.

s. 25 (3),
re-enacted

- (2) Subsection 3 of the said section 25 is repealed and the following substituted therefor:

Last day
for filing
applications
for revision of
preliminary
list

(3) The last day for the filing of applications for revision of the preliminary list shall be the nineteenth day immediately preceding polling day and such applications may be filed with the clerk during his normal office hours.

s. 25 (5) (b),
re-enacted

- (3) Clause *b* of subsection 5 of the said section 25 is repealed and the following substituted therefor:

(b) every member of the council of the municipality, every trustee of a police village all or part of which is in the municipality and every member of every local board the members of which are required to be elected at an election to be conducted by the clerk.

8. Subsection 1 of section 27 of the said Act is repealed and the following substituted therefor: s. 27 (1),
re-enacted

(1) A person whose name has not been included in the preliminary list for a polling subdivision in a municipality or whose name has been included therein but the information relating to him set out therein is incorrect or whose name has been included therein as a non-resident and who is qualified to be an elector in more than one ward in the municipality may apply to the clerk or assistant revising officer of the municipality on or before the last day for filing applications for revision of the list to have his name included on the list or to have such information corrected, including having his name deleted from any list where it is incorrectly included, or to have his name deleted from the list and to have it entered in the list of another ward in which he or his spouse is the owner or tenant of land.

Application
to enter name
in or delete
name from
list or correct
information

9. Subsection 7 of section 28 of the said Act is repealed and the following substituted therefor: s. 28 (7),
re-enacted

(7) Where, under this section, for any reason the name of a person is deleted from a preliminary list of electors, the clerk shall forthwith cause to be served personally on or sent by registered mail to that person at the address given in the preliminary list a notice indicating the reasons for which the person's name was deleted from the preliminary list and advising of the voting procedures under sections 33 and 56, but if the clerk is satisfied that the person cannot be found at the address in the preliminary list, or that the notice cannot be delivered to the person, no notice need be given.

Where
name deleted
from pre-
liminary list

10. Section 30 of the said Act is repealed and the following substituted therefor: s. 30,
re-enacted

30. Upon the determination of all applications for revision of the preliminary list of electors for a municipality filed on or before the last day for filing applications for revision thereof, the clerk shall compile a statement of inclusions in, additions and changes to and deletions from the list, bearing the full name and address of each person who is the subject of the inclusion, addition, change or deletion, and shall send a certified copy of such statement to each person specified in subsection 5 of section 25 and shall furnish two certified copies of such statement to every candidate for any office.

Statement
of change

- 11.—(1) Subsection 4 of section 33 of the said Act is repealed. s. 33 (4),
repealed

(2) Subsection 5 of the said section 33 is repealed and the following substituted therefor: s. 33 (5),
re-enacted

Entry on
polling list

(5) The deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk the name and address of the person voting under the authority of a certificate issued under this section.

s. 35 (2),
re-enacted

12. Subsection 2 of section 35 of the said Act is repealed and the following substituted therefor:

Period for
nomination

(2) Persons may be nominated as candidates in an election between 9 o'clock in the forenoon and 5 o'clock in the afternoon of nomination day, but nothing in this section prevents a person from filing a nomination paper with the clerk during his normal office hours during the four days immediately preceding nomination day.

s. 36 (1),
amended

13.—(1) Subsection 1 of section 36 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

How
nominated

(1) A person may be nominated as a candidate for an office by filing, either personally or through his agent, in the office of the clerk, on the days and during the hours specified in subsection 2 of section 35, a nomination paper in prescribed form which,

s. 36 (1) (a),
re-enacted

(2) Clause *a* of subsection 1 of the said section 36, as re-enacted by the Statutes of Ontario, 1978, chapter 12, section 2, is repealed and the following substituted therefor:

(a) shall be signed by at least ten electors whose names are entered on the preliminary list of electors or who have made application to have their names included on the list and who are entitled to vote in the election to such office.

s. 36 (6),
re-enacted

(3) Subsection 6 of the said section 36 is repealed and the following substituted therefor:

Possession of
nomination
paper by
clerk

(6) After a nomination paper is certified by the clerk, it shall remain in the possession of the clerk but shall be open to inspection by any person during the normal office hours of the clerk.

s. 37 (5),
re-enacted

14. Subsection 5 of section 37 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 57, section 1, is repealed and the following substituted therefor:

Where
number of
candidates
nominated
insufficient

(5) Where, at 5 o'clock in the afternoon of the day following nomination day, the number of candidates who have been nominated for an office and have not withdrawn under subsection 1 of section 39 is not sufficient to fill the number of vacancies to which

candidates may be elected, subsection 1 of section 40 respecting acclamation applies to those candidates, but additional nominations for the remaining vacancies in the office in respect of which there was an insufficient number of candidates may be filed in the office of the clerk on the Wednesday following nomination day between the hours of 9 o'clock in the forenoon and 5 o'clock in the afternoon and the provisions of subsection 4 of this section and subsection 1 of section 39 apply, with necessary modifications.

- 15.** Section 38 of the said Act is amended by adding thereto the following subsection: s. 38.
amended

(2) Notwithstanding subsection 1, if a candidate nominated for election to the office of the head of the council of a municipality dies before the close of the poll for the election and, Death of
candidate
for head of
council

(a) prior to 5 o'clock on the afternoon of nomination day, additional nominations for the office may be filed in the office of the clerk on the Wednesday following nomination day between the hours of 9 o'clock in the forenoon and 5 o'clock in the afternoon and the provisions of subsection 4 of section 37 apply, with necessary modifications, as though the additional nomination papers had been filed on nomination day; or

(b) after 5 o'clock on the afternoon of nomination day, the election to such office is void and a new election shall be held to fill such office.

- 16.** Subsection 3 of section 40 of the said Act is repealed and the following substituted therefor: s. 40 (3).
re-enacted

(3) If the number of candidates declared to be elected to an office under subsection 1, 1a or 2 is less than the number to be elected to such office so there is a vacancy, a new election shall be held to fill the vacancy, except that where the number of candidates declared to be elected is sufficient to form a quorum, the vacancy may be filled in accordance with section 44 of *The Municipal Act*. Vacancy

R.S.O. 1970.
c. 284

- 17.** Section 43 of the said Act is amended by adding thereto the following subsection: s. 43.
amended

(8a) In a metropolitan, regional or district municipality, and in the County of Oxford, a ballot shall contain information showing the name of the office for which the election is being held and the name of any office on any other council which will be held as a result of the election to such office. Information
on ballot
in regional,
etc., muni-
cipalities

s. 46,
amended

- 18.** Section 46 of the said Act, as amended by the Statutes of Ontario, 1978, chapter 57, section 2, is further amended by adding thereto the following subsection:

Idem

(8) Notwithstanding clause *a* of subsection 7, the council of a municipality having more than 5,000 electors may, by by-law passed not later than the 1st day in September of an election year, provide that the clerk shall advise each resident elector of the location of the polling place at which that elector is to vote by mailing or causing to be delivered to the address of the elector a notice of the location of such polling place, which notice shall be directed to all the electors at that address.

s. 50 (1),
re-enacted

- 19.—**(1) Subsection 1 of section 50 of the said Act is repealed and the following substituted therefor:

Voting of
D.R.O.,
poll clerk,
etc., where
employed

(1) Subject to subsection 2, at the request of a person whose name is entered on the polling list for a polling place in a municipality who has been appointed a deputy returning officer, poll clerk, election assistant or constable at another polling place, the clerk of the municipality shall give him a certificate in the prescribed form that he is entitled to vote at the polling place at which he is stationed during the polling day.

s. 50 (3),
re-enacted

- (2) Subsection 3 of the said section 50 is repealed and the following substituted therefor:

When
certificate
may be
given

(3) The clerk shall not give a certificate under this section until he has ascertained by reference to the polling list or to a certificate under section 33 that the applicant is entitled to vote, and the person to whom the certificate has been given is not thereafter entitled to vote at the polling place at which, by the polling list or certificate under section 33, he had been entitled to vote.

s. 50 (5),
repealed

- (3) Subsection 5 of the said section 50 is repealed.

s. 51 (2),
re-enacted

- 20.** Subsection 2 of section 51 of the said Act is repealed and the following substituted therefor:

Entry on
polling list

(2) The deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk the name and address of the person voting under the authority of a certificate issued under section 50.

s. 55 (1),
par. 7,
re-enacted

- 21.—**(1) Paragraph 7 of subsection 1 of section 55 of the said Act is repealed and the following substituted therefor:

7. If such person takes the oath, the deputy returning officer shall enter or cause to be entered opposite such

person's name on the polling list maintained by the poll clerk, the word "*Sworn*" or "*Affirmed*" according to the fact, shall put his initials on the back of the ballot paper, so placed that when the ballot is folded they can be seen without opening it, and shall deliver the ballot paper to such person.

(2) Subsection 2 of the said section 55 is repealed.

s. 55 (2),
repealed

22.—(1) Subsection 2 of section 56 of the said Act is repealed and the following substituted therefor:

s. 56 (2),
re-enacted

(2) The deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk the name and address of the elector.

Idem

(2) Subsection 3 of the said section 56 is repealed.

s. 56 (3),
repealed

23. Subsection 8 of section 66 of the said Act is repealed and the following substituted therefor:

s. 66 (8),
re-enacted

(8) On the regular polling day for an election, after the close of polling, the deputy returning officer shall, in the presence of such candidates for office at the election or their scrutineers as are present at the hour fixed for the closing of the poll, open the ballot boxes for the advance poll, count the votes and perform all other duties required of deputy returning officers by this Act.

Opening of
ballot boxes
for advance
poll

24. Subsection 6 of section 78 of the said Act is repealed and the following substituted therefor:

s. 78 (6),
re-enacted

(6) Subject to section 69, a deputy returning officer, after the close of the poll, shall not under any circumstances take, or allow to be taken, the ballot box to any place except the office of the clerk, or to such other place as the clerk has in writing directed.

Where D.R.O.
to take
ballot box

25. Subsection 2 of section 80 of the said Act is repealed and the following substituted therefor:

s. 80 (2),
re-enacted

(2) Where the documents specified in subsection 1 of section 78 are in error omitted from or placed in the ballot box, the clerk may open such ballot box or boxes in the presence of the deputy returning officer concerned, and having corrected the error or after having recovered or ascertained the meaning of the statement, as the case may be, the box shall be resealed by the deputy returning officer in the presence of the clerk and by the clerk.

Opening box
when docu-
ments
omitted from
or
placed in box
in error

26.—(1) Subsection 2 of section 83 of the said Act is repealed and the following substituted therefor:

s. 83 (2),
re-enacted

Where
recount
desirable

(2) If, within fourteen days after the declaration by a clerk of a result of an election, upon an application of an elector it is made to appear by affidavit to a judge that the votes have been improperly counted or any ballot paper has been improperly rejected or that an incorrect statement of the number of votes cast for any candidate or for the affirmative or negative on any by-law or question has been made or that the votes have been improperly added up, and if within that time the applicant has served a copy of the application, including his affidavit, upon each candidate involved in the election which is the subject of the application, and upon the clerk, and has given security for the costs in connection with the recount or final addition of any candidate declared elected in the amount of \$100 in legal tender or if at any time within four weeks after such declaration the council of the municipality or a school board has by resolution declared that a recount or final addition is desirable in the public interest, the judge shall appoint a date and time and place to recount or make a final addition of the votes cast at the election, and shall notify in writing the clerk who made the declaration at least ten days prior to the date set for the recount or final addition.

s. 83,
amended

(2) The said section 83 is amended by adding thereto the following subsections:

Right to sit
pending
recount
or final
addition

(12) Any candidate declared elected is entitled to sit on the council or board notwithstanding that an application for a recount or final addition has been brought under this section, but where the recount or final addition determines that some other person was elected, such person is, notwithstanding that an appeal is pending, entitled to take his seat and to sit and vote until the appeal is disposed of.

Decisions
not affected

(13) The decisions of a council or local board reached with the participation of a member or members who is or are subsequently declared to be not entitled to sit on council shall not in any way be affected on the grounds of the participation of such member or members.

Commence-
ment

27. This Act comes into force on the day it receives Royal Assent.

Short title

28. The short title of this Act is *The Municipal Elections Amendment Act, 1980*.

An Act to amend
The Municipal Elections Act, 1977

1st Reading

May 15th, 1980

2nd Reading

June 6th, 1980

3rd Reading

June 17th, 1980

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act respecting
the Sale of Dangerous Plants in Ontario

MR. CUNNINGHAM



EXPLANATORY NOTE

The purpose of the Bill is to require that any dangerous plant sold in Ontario be accompanied by a warning to consumers indicating that the plant is dangerous and describing the nature of the danger.

BILL 72

1980

An Act respecting the Sale of Dangerous Plants in Ontario

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, “dangerous plant” means a plant, the ingestion or touching of which, is or is likely to be harmful to the health of any person. Interpre-
tation

2. No person shall sell or offer for sale to consumers in Ontario any dangerous plant unless the plant container is clearly marked with a warning indicating that the plant is dangerous and describing the nature of the danger. Prohibition

3.—(1) The Lieutenant Governor in Council may appoint a chief inspector and such inspectors as are considered necessary for the enforcement of this Act and the regulations. Inspectors

(2) No person shall obstruct an inspector in the performance of his duties or furnish an inspector with false information. Obstruction
of inspector

4. The Lieutenant Governor in Council may make regulations, Regulations

- (a) designating plants or classes of plants that are dangerous plants;
- (b) respecting the form of warnings on the containers of dangerous plants;
- (c) respecting records to be kept by persons who sell or offer for sale dangerous plants.

5.—(1) Every person who contravenes this Act is guilty of an offence and on conviction is liable to a fine of not more than \$5,000. Offence

- Corporation (2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.
- Directors and officers (3) Where a corporation has been convicted of an offence under subsection 1, each director and officer of the corporation is a party to the offence unless he satisfies the court that he did not authorize, permit or acquiesce in the offence.
- Commencement **6.** This Act comes into force on the day it receives Royal Assent.
- Short title **7.** The short title of this Act is *The Dangerous Plants Act, 1980*.

An Act respecting the Sale of
Dangerous Plants in Ontario

1st Reading

May 15th, 1980

2nd Reading

3rd Reading

MR. CUNNINGHAM

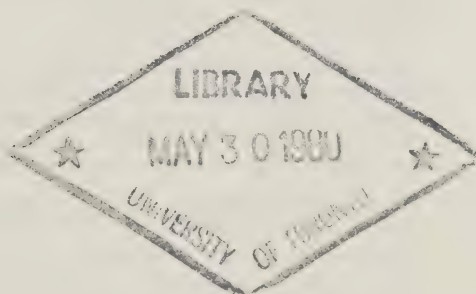
(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Legislative Assembly

An Act to amend The Labour Relations Act

THE HON. R. G. ELGIE
Minister of Labour



EXPLANATORY NOTE

Section 131a of the Act now reads as follows:

- 131a.—(1) An application for certification as bargaining agent for the employees of an employer employed in the industrial, commercial and institutional sector of the construction industry referred to in clause e of section 106 may only be brought by a designated or certified employee bargaining agency on behalf of all the affiliated bargaining agents it represents, and the unit of employees that is appropriate for collective bargaining shall be those employees who would be bound by a provincial agreement.*
- (2) A voluntary recognition agreement pertaining to employees employed in the industrial, commercial and institutional sector of the construction industry referred to in clause e of section 106 shall only be between the employer of the said employees and a designated or certified employee bargaining agency on behalf of all the affiliated bargaining agents it represents and the defined bargaining unit shall only be those employees who would be bound by a provincial agreement.*
- (3) Notwithstanding subsections 1 and 2, a trade union that is not represented by a designated or certified employee bargaining agency may bring an application for certification or enter into a voluntary recognition agreement on its own behalf.*

At present, an application for certification as bargaining agent for employees in the industrial, commercial and institutional sector of the construction industry may be brought only by an employee bargaining agency. Under the proposed subsection 1 of section 131a, an employee bargaining agency or one or more affiliated bargaining agents represented by an employee bargaining agency will be able to bring an application for certification. Subsection 1 also defines the unit of employees that is appropriate for collective bargaining.

Subsection 2 is a new provision and reflects the present policy of the Board for certification in a particular area for all sectors of the construction industry. The subsection includes the restriction that the unit in the industrial, commercial and institutional sector be province-wide. This restriction is now contained in subsection 1 of section 131a.

Subsection 3 is also a new provision and clarifies that a trade union represented by an employee bargaining agency may bring an application for certification in relation to a unit of employees employed in sectors other than the industrial, commercial and institutional sector.

At present under subsection 2 of section 131a, a voluntary recognition agreement may only be between an employer and an employee bargaining agency. The proposed subsection 4 will permit voluntary recognition agreements between an employer and an employee bargaining agency, one or more affiliated bargaining agents represented by an employee bargaining agency or councils of trade unions.

Subsection 5 has the same effect as the present subsection 3.

BILL 73

1980

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 131a of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1979, chapter 113, section 2, is repealed and the following substituted therefor: s. 131a.
re-enacted

131a.—(1) An application for certification as bargaining agent which relates to the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106 shall be brought by either, Application
for certification in the
industrial,
commercial
and institutional
sector

(a) an employee bargaining agency; or

(b) one or more affiliated bargaining agents of the employee bargaining agency,

on behalf of all affiliated bargaining agents of the employee bargaining agency and the unit of employees shall include all employees who would be bound by a provincial agreement together with all other employees in at least one geographic area unless bargaining rights for a geographic area have already been acquired under subsection 3 or by voluntary recognition.

(2) If on the taking of a representation vote more than 50 per cent of the ballots cast are cast in favour of the trade unions on whose behalf the application is brought, or, if the Board is satisfied that more than 55 per cent of the employees in the bargaining unit are members of the trade unions on whose behalf the application is brought, the Board shall certify the trade unions as the bargaining agent of the employees in the bargaining unit and in so doing shall issue a certificate confined to the industrial, commercial and institutional sector and issue another certificate in relation to all other sectors in the appropriate geographic area or areas. Certification

Saving

(3) Notwithstanding subsection 1 of section 108, a trade union represented by an employee bargaining agency may bring an application for certification in relation to a unit of employees employed in all sectors of a geographic area other than the industrial, commercial and institutional sector and the unit shall be deemed to be a unit of employees appropriate for collective bargaining.

Voluntary
recognition
agreements

(4) A voluntary recognition agreement in so far as it relates to the industrial, commercial and institutional sector of the construction industry shall be between an employer on the one hand and either,

- (a) an employee bargaining agency;
- (b) one or more affiliated bargaining agents represented by an employee bargaining agency; or
- (c) a council of trade unions on behalf of one or more affiliated bargaining agents affiliated with the council of trade unions,

on the other hand, and shall be deemed to be on behalf of all the affiliated bargaining agents of the employee bargaining agency and the defined bargaining unit in the agreement shall include those employees who would be bound by a provincial agreement.

Exception

(5) Notwithstanding subsections 1 and 4, a trade union that is not represented by a designated or certified employee bargaining agency may bring an application for certification or enter into a voluntary recognition agreement on its own behalf.

Commence-
ment

2. This Act shall be deemed to have come into force on the 1st day of May, 1980.

Short title

3. The short title of this Act is *The Labour Relations Amendment Act, 1980*.

An Act to amend
The Labour Relations Act

1st Reading

May 20th, 1980

2nd Reading

3rd Reading

THE HON. R. G. ELGIE
Minister of Labour

(Government Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO

29 ELIZABETH II, 1980

Legislative House

An Act to amend The Labour Relations Act

THE HON. R. G. ELGIE
Minister of Labour

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

Section 131a of the Act now reads as follows:

- 131a.—(1) An application for certification as bargaining agent for the employees of an employer employed in the industrial, commercial and institutional sector of the construction industry referred to in clause e of section 106 may only be brought by a designated or certified employee bargaining agency on behalf of all the affiliated bargaining agents it represents, and the unit of employees that is appropriate for collective bargaining shall be those employees who would be bound by a provincial agreement.*
- (2) A voluntary recognition agreement pertaining to employees employed in the industrial, commercial and institutional sector of the construction industry referred to in clause e of section 106 shall only be between the employer of the said employees and a designated or certified employee bargaining agency on behalf of all the affiliated bargaining agents it represents and the defined bargaining unit shall only be those employees who would be bound by a provincial agreement.*
- (3) Notwithstanding subsections 1 and 2, a trade union that is not represented by a designated or certified employee bargaining agency may bring an application for certification or enter into a voluntary recognition agreement on its own behalf.*

At present, an application for certification as bargaining agent for employees in the industrial, commercial and institutional sector of the construction industry may be brought only by an employee bargaining agency. Under the proposed subsection 1 of section 131a, an employee bargaining agency or one or more affiliated bargaining agents represented by an employee bargaining agency will be able to bring an application for certification. Subsection 1 also defines the unit of employees that is appropriate for collective bargaining.

Subsection 2 is a new provision and reflects the present policy of the Board for certification in a particular area for all sectors of the construction industry. The subsection includes the restriction that the unit in the industrial, commercial and institutional sector be province-wide. This restriction is now contained in subsection 1 of section 131a.

Subsection 3 is also a new provision and clarifies that a trade union represented by an employee bargaining agency may bring an application for certification in relation to a unit of employees employed in sectors other than the industrial, commercial and institutional sector.

At present under subsection 2 of section 131a, a voluntary recognition agreement may only be between an employer and an employee bargaining agency. The proposed subsection 4 will permit voluntary recognition agreements between an employer and an employee bargaining agency, one or more affiliated bargaining agents represented by an employee bargaining agency or councils of trade unions.

Subsection 5 has the same effect as the present subsection 3.

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 131a of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1979, chapter 113, section 2, is repealed and the following substituted therefor:

131a.—(1) An application for certification as bargaining agent which relates to the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106 shall be brought by either,

s. 131a.
re-enacted

Application
for certification in the
industrial,
commercial
and institutional sector

- (a) an employee bargaining agency; or
- (b) one or more affiliated bargaining agents of the employee bargaining agency,

on behalf of all affiliated bargaining agents of the employee bargaining agency and the unit of employees shall include all employees who would be bound by a provincial agreement together with all other employees in at least one appropriate geographic area unless bargaining rights for such geographic area have already been acquired under subsection 3 or by voluntary recognition.

(2) If on the taking of a representation vote more than 50 per cent of the ballots cast are cast in favour of the trade unions on whose behalf the application is brought, or, if the Board is satisfied that more than 55 per cent of the employees in the bargaining unit are members of the trade unions on whose behalf the application is brought, the Board shall certify the trade unions as the bargaining agent of the employees in the bargaining unit and in so doing shall issue a certificate confined to the industrial, commercial and institutional sector and issue another certificate in relation to all other sectors in the appropriate geographic area or areas.

Certification

Saving

(3) Notwithstanding subsection 1 of section 108, a trade union represented by an employee bargaining agency may bring an application for certification in relation to a unit of employees employed in all sectors of a geographic area other than the industrial, commercial and institutional sector and the unit shall be deemed to be a unit of employees appropriate for collective bargaining.

Voluntary recognition agreements

(4) A voluntary recognition agreement in so far as it relates to the industrial, commercial and institutional sector of the construction industry shall be between an employer on the one hand and either,

- (a) an employee bargaining agency;
- (b) one or more affiliated bargaining agents represented by an employee bargaining agency; or
- (c) a council of trade unions on behalf of one or more affiliated bargaining agents affiliated with the council of trade unions,

on the other hand, and shall be deemed to be on behalf of all the affiliated bargaining agents of the employee bargaining agency and the defined bargaining unit in the agreement shall include those employees who would be bound by a provincial agreement.

Exception

(5) Notwithstanding subsections 1 and 4, a trade union that is not represented by a designated or certified employee bargaining agency may bring an application for certification or enter into a voluntary recognition agreement on its own behalf.

Commencement

- 2.** This Act shall be deemed to have come into force on the 1st day of May, 1980.

Short title

- 3.** The short title of this Act is *The Labour Relations Amendment Act, 1980*.

An Act to amend
The Labour Relations Act

1st Reading

May 20th, 1980

2nd Reading

May 27th, 1980

3rd Reading

THE HON. R. G. ELGIE
Minister of Labour

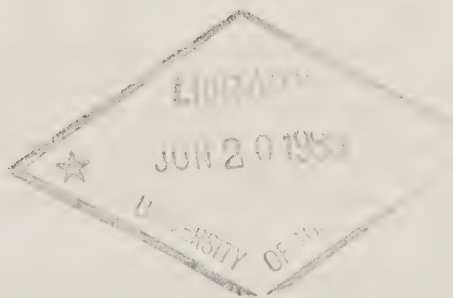
*(Reprinted as amended by the
Committee of the Whole House)*

Paid
BILL 73

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980 *By the Honourable*

An Act to amend The Labour Relations Act

THE HON. R. G. ELGIE
Minister of Labour



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 131a of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1979, chapter 113, section 2, is repealed and the following substituted therefor:

131a.—(1) An application for certification as bargaining agent which relates to the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106 shall be brought by either,

s. 131a,
re-enacted

Application
for certification
in the
industrial,
commercial
and institutional
sector

(a) an employee bargaining agency; or

(b) one or more affiliated bargaining agents of the employee bargaining agency,

on behalf of all affiliated bargaining agents of the employee bargaining agency and the unit of employees shall include all employees who would be bound by a provincial agreement together with all other employees in at least one appropriate geographic area unless bargaining rights for such geographic area have already been acquired under subsection 3 or by voluntary recognition.

(2) If on the taking of a representation vote more than 50 per cent of the ballots cast are cast in favour of the trade unions on whose behalf the application is brought, or, if the Board is satisfied that more than 55 per cent of the employees in the bargaining unit are members of the trade unions on whose behalf the application is brought, the Board shall certify the trade unions as the bargaining agent of the employees in the bargaining unit and in so doing shall issue a certificate confined to the industrial, commercial and institutional sector and issue another certificate in relation to all other sectors in the appropriate geographic area or areas.

Certification

Saving

(3) Notwithstanding subsection 1 of section 108, a trade union represented by an employee bargaining agency may bring an application for certification in relation to a unit of employees employed in all sectors of a geographic area other than the industrial, commercial and institutional sector and the unit shall be deemed to be a unit of employees appropriate for collective bargaining.

Voluntary
recognition
agreements

(4) A voluntary recognition agreement in so far as it relates to the industrial, commercial and institutional sector of the construction industry shall be between an employer on the one hand and either,

(a) an employee bargaining agency;

(b) one or more affiliated bargaining agents represented by an employee bargaining agency; or

(c) a council of trade unions on behalf of one or more affiliated bargaining agents affiliated with the council of trade unions,

on the other hand, and shall be deemed to be on behalf of all the affiliated bargaining agents of the employee bargaining agency and the defined bargaining unit in the agreement shall include those employees who would be bound by a provincial agreement.

Exception

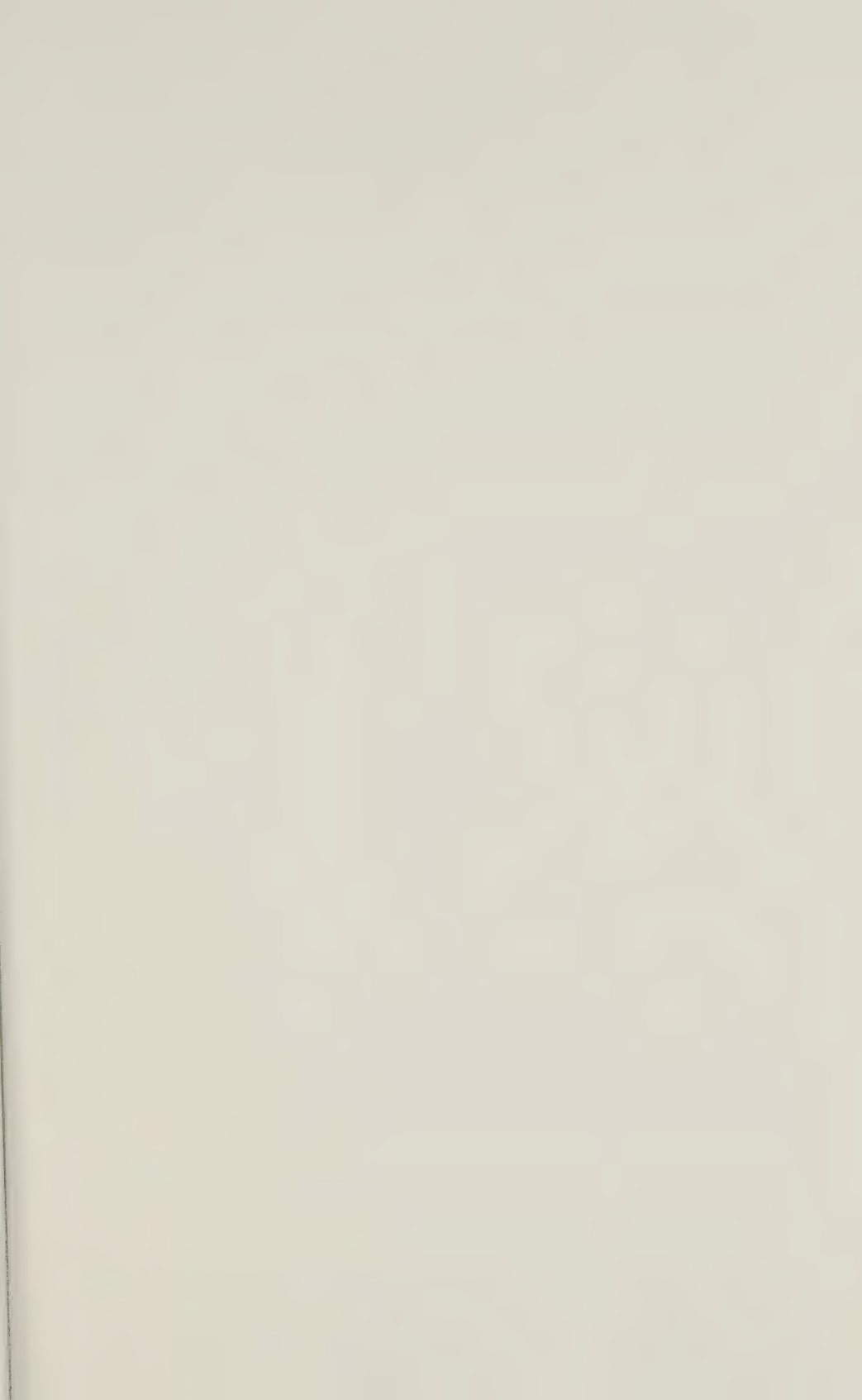
(5) Notwithstanding subsections 1 and 4, a trade union that is not represented by a designated or certified employee bargaining agency may bring an application for certification or enter into a voluntary recognition agreement on its own behalf.

Commence-
ment

2. This Act shall be deemed to have come into force on the 1st day of May, 1980.

Short title

3. The short title of this Act is *The Labour Relations Amendment Act, 1980*.



An Act to amend
The Labour Relations Act

1st Reading

May 20th, 1980

2nd Reading

May 27th, 1980

3rd Reading

June 3rd, 1980

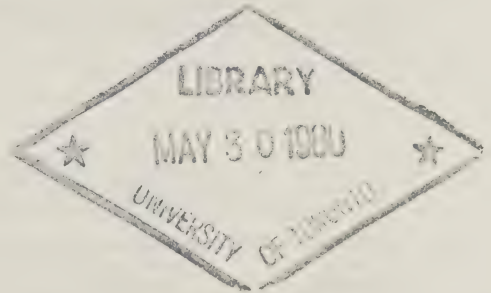
THE HON. R. G. ELGIE
Minister of Labour

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Legislature Assembly

An Act to amend The County of Oxford Act, 1974

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs



EXPLANATORY NOTES

SECTION 1. The paragraph proposed to be re-enacted now reads as follows:

1. *The City of Woodstock—except as may be provided under subsection 3, eight members elected by a general vote of the electors of the area municipality, and, the five members receiving the highest number of votes shall be members of the County Council, except that in the event that any one of such five members decline to accept membership in the County Council, the member of such area municipality receiving the next highest number of votes in declining order shall be entitled to be a member of the County Council.*

The paragraph provides for the representation of the City of Woodstock, in addition to its mayor, on the County Council; the number of the City's members on the County Council is unchanged but the method of their selection is varied.

SECTION 2. The section proposed to be added is one that is now found in the various Acts establishing regional municipalities and provides in the circumstances indicated for a stay of proceedings before the Municipal Board on an application or petition respecting changes in a ward system or varying the composition of council.

SECTION 3. The effect of the re-enactment is to add section 390*b* as a section of *The Municipal Act* that applies to the County; that section now reads as follows:

*Insurance,
hospita-
lization,
etc.*

- 390*b*. *The council of every municipality may pass by-laws for providing for any or all of the members of council any benefits that may be provided for the employees of a municipality under paragraphs 66 and 67 of section 352 and for any other benefits of a like nature that the council considers appropriate.*

SECTION 4. The subsection now reads as follows:

*Consolidating
by-laws*

- (9) *The County Council shall, on or before the 1st day of May, 1979, pass a by-law consolidating all by-laws relating to the county road system, and shall at intervals of not more than five years thereafter pass similar consolidating by-laws.*

The re-enactment deletes the time limits for the passing of consolidating roads by-laws now found in the subsection.

BILL 74

1980

An Act to amend The County of Oxford Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 1 of subsection 1 of section 3 of *The County of Oxford Act, 1974*, being chapter 57, is repealed and the following substituted therefor:
 1. The City of Woodstock—eight members, five of whom shall be elected by a general vote of the electors of the area municipality as members of the council of the area municipality and of the County Council, and three of whom shall be elected by a general vote of the electors as members of the council of the area municipality.
2. The said Act is amended by adding thereto the following section:

3a. Where the Minister is inquiring into the structure, organization and methods of operation of one or more area municipalities or the County, the Minister may give notice to the Municipal Board of such inquiry and that in his opinion any application or applications and any petition or petitions made under subsection 4a of section 3 should be deferred until the inquiry had been completed and considered, and thereupon all proceedings in any such application are stayed until the Minister gives notice to the Municipal Board that they may be continued.
3. Subsection 3 of section 19 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 69, section 2, is repealed and the following substituted therefor:

(3) Sections 388, 389, 389a to 389e, 390, 390a, 390b and 391 of *The Municipal Act* apply with necessary modifications to the County Council.
4. Subsection 9 of section 29 of the said Act is repealed and the following substituted therefor:

s. 3 (1),
par. 1,
re-enacted

s. 3a,
enacted

Stay of
proceedings
pending
completion
of inquiry

s. 19 (3),
re-enacted

Application of
R.S.O. 1970,
c. 284

s. 29 (9),
re-enacted

Consolidating
by-law

(9) The County Council shall, from time to time, pass a by-law consolidating all by-laws relating to the county road system.

s. 55 (4),
re-enacted

5. Subsection 4 of section 55 of the said Act is repealed and the following substituted therefor:

Powers
under
R.S.O. 1970,
c. 349

(4) The council of an area municipality may exercise the powers provided in section 22, except subsection 10, sections 24, 35, 35a, 35b, 35c, 36, 37, 37a, 38, and section 42, except subsection 3, of *The Planning Act*, but in the event that there is a conflict between a by-law passed by the County Council and a by-law passed by the council of an area municipality in the exercise of such powers the by-law passed by the County Council shall prevail.

s. 114,
amended

6. Section 114 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 118, section 3, 1977, chapter 36, section 5 and 1979, chapter 69, section 11, is further amended by adding thereto the following subsection:

Purchasing
or renting
machinery
R.S.O. 1970,
c. 284

(3b) The County shall be deemed to be, and to have always been, a municipality for the purposes of section 455 of *The Municipal Act*.

Commence-
ment

7.—(1) This Act, except sections 1 and 5, comes into force on the day it receives Royal Assent.

Idem

(2) Section 5 shall be deemed to have come into force on the 1st day of January, 1975.

Idem

(3) Section 1 comes into force on the 1st day of December, 1980.

Short title

8. The short title of this Act is *The County of Oxford Amendment Act, 1980*.

SECTION 5. The re-enactment adds section 22 (except for subsection 10 thereof) and sections 24, 35a, 35b, 35c, 37, 37a and 42 (except for subsection 3 thereof) to the sections of *The Planning Act* that an area municipality may exercise powers under.

SECTION 6. The subsection proposed to be added authorizes the County to purchase conditionally or to rent machinery or appliances for the purposes of the County.



An Act to amend
The County of Oxford Act, 1974

1st Reading

May 22nd, 1980

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

(Government Bill)

6

Publications

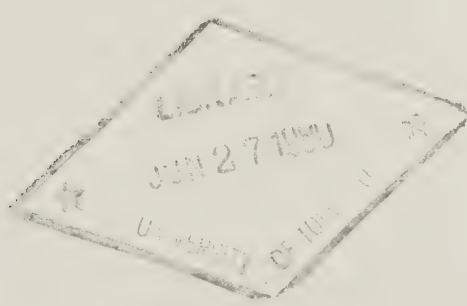
BILL 74

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Legislature House

An Act to amend The County of Oxford Act, 1974

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs



BILL 74

1980

An Act to amend The County of Oxford Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 1 of subsection 1 of section 3 of *The County of Oxford Act, 1974*, being chapter 57, is repealed and the following substituted therefor: s. 3 (1),
par. 1,
re-enacted

1. The City of Woodstock—eight members, five of whom shall be elected by a general vote of the electors of the area municipality as members of the council of the area municipality and of the County Council, and three of whom shall be elected by a general vote of the electors as members of the council of the area municipality.

2. The said Act is amended by adding thereto the following section: s. 3a,
enacted

3a. Where the Minister is inquiring into the structure, organization and methods of operation of one or more area municipalities or the County, the Minister may give notice to the Municipal Board of such inquiry and that in his opinion any application or applications and any petition or petitions made under subsection 4a of section 3 should be deferred until the inquiry had been completed and considered, and thereupon all proceedings in any such application are stayed until the Minister gives notice to the Municipal Board that they may be continued. Stay of
proceedings
pending
completion
of inquiry

3. Subsection 3 of section 19 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 69, section 2, is repealed and the following substituted therefor: s. 19 (4),
re-enacted

(3) Sections 388, 389, 389a to 389e, 390, 390a, 390b and 391 of *The Municipal Act* apply with necessary modifications to the County Council. Application of
R.S.O. 1970,
c. 284

4. Subsection 9 of section 29 of the said Act is repealed and the following substituted therefor: s. 29 (9),
re-enacted

Consolidating
by-law

(9) The County Council shall, from time to time, pass a by-law consolidating all by-laws relating to the county road system.

s. 55 (4),
re-enacted

5. Subsection 4 of section 55 of the said Act is repealed and the following substituted therefor:

Powers
under
R.S.O. 1970,
c. 349

(4) The council of an area municipality may exercise the powers provided in section 22, except subsection 10, sections 24, 35, 35a, 35b, 35c, 36, 37, 37a, 38, and section 42, except subsection 3, of *The Planning Act*, but in the event that there is a conflict between a by-law passed by the County Council and a by-law passed by the council of an area municipality in the exercise of such powers the by-law passed by the County Council shall prevail.

s. 114,
amended

6. Section 114 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 118, section 3, 1977, chapter 36, section 5 and 1979, chapter 69, section 11, is further amended by adding thereto the following subsection:

Purchasing
or renting
machinery
R.S.O. 1970,
c. 284

(3b) The County shall be deemed to be, and to have always been, a municipality for the purposes of section 455 of *The Municipal Act*.

Commence-
ment

- 7.—(1) This Act, except sections 1 and 5, comes into force on the day it receives Royal Assent.

Idem

- (2) Section 5 shall be deemed to have come into force on the 1st day of January, 1975.

Idem

- (3) Section 1 comes into force on the 1st day of December, 1980.

Short title

8. The short title of this Act is *The County of Oxford Amendment Act, 1980*.

An Act to amend
The County of Oxford Act, 1974

1st Reading

May 22nd, 1980

2nd Reading

June 5th, 1980

3rd Reading

June 17th, 1980

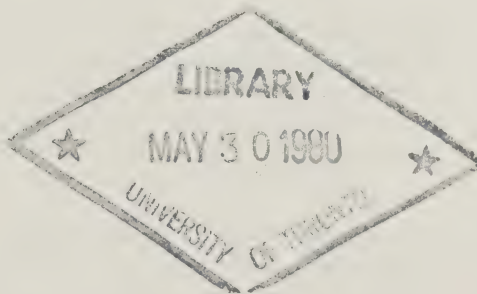
THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Legislature Assembly

An Act to amend
The Regional Municipality of Ottawa-Carleton Act

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The number of members on the Regional Council is increased by two, from thirty-one to thirty-three; the representation of the Township of Gloucester is increased from two to three and the representation of the City of Nepean is increased from three to four. In addition, the manner of selection of the representatives of Gloucester and Nepean is varied.

Subsection 2. The subsection to be repealed authorizes the Minister to establish the method of selecting the representatives of Nepean on the Regional Council; they will now be directly elected to the Regional Council.

BILL 75

1980

**An Act to amend
The Regional Municipality of Ottawa-Carleton Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 4 of *The Regional Municipality of Ottawa-Carleton Act*, being chapter 407 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1973, chapter 138, section 2 and 1979, chapter 81, section 2, is repealed and the following substituted therefor: s. 4 (1),
re-enacted

(1) On and after the 1st day of December, 1980, the Regional Council shall consist of thirty-three members composed of a chairman and, Composition
of
Regional
Council

- (a) the head of council of each area municipality;
- (b) fifteen members of council from the City of Ottawa being the remainder of the council of the City;
- (c) the member of council of the City of Vanier elected by general vote who at the general municipal election next preceding the day the Regional Council is organized in any year received the highest number of votes or, if no member was elected by general vote, then a member appointed by the council of the City of Vanier;
- (d) two members of the council of the Township of Gloucester elected by general vote who at the general municipal election next preceding the day the Regional Council is organized in any year received the highest number of votes, and in the event that either or both of such members decline to accept membership on the Regional Council, the members of the council of the township receiving the next highest number of votes in declining order shall be entitled to be a member or members of the Regional Council; and

- (e) three members of the council of the City of Nepean who have been elected by general vote as members of the Regional Council and of the council of such area municipality.

s. 4 (1a),
repealed

- (2) Subsection 1a of the said section 4, as enacted by the Statutes of Ontario, 1979, chapter 81, section 2, is repealed.

s. 6,
re-enacted

2. Section 6 of the said Act is repealed and the following substituted therefor:

Abolition
of office of
deputy reeve

6. No area municipality which has or is entitled to have a deputy reeve shall, notwithstanding the provisions of any Act, have a deputy reeve on or after the 1st day of December, 1980.

s. 18 (1),
re-enacted

3. Subsection 1 of section 18 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 4, is repealed and the following substituted therefor:

Application
of
R.S.O. 1970,
c. 284

- (1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a and 390b of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 45 (8),
re-enacted

4. Subsection 8 of section 45 of the said Act is repealed and the following substituted therefor:

Consolidating
by-law

- (8) Subject to the approval of the Lieutenant Governor in Council, the Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system.

s. 57a,
enacted

5. The said Act is amended by adding thereto the following section:

Agreements
respecting
buildings,
etc., above
or beneath
regional
roads

- 57a.—(1) The Regional Council may by by-law authorize agreements between the Regional Corporation and the owners or lessees of land abutting on a highway under the jurisdiction and control of the Regional Corporation for the construction, maintenance and use of buildings, structures or parts thereof, over, across or under the highway upon such terms and conditions as may be agreed and for leasing or licensing the use of the air space over the highway or the lands under the highway to such persons and for such consideration and upon such terms and conditions as may be agreed.

Approval of
Minister of
Transportation
and
Communications
R.S.O. 1970,
c. 201

- (2) An agreement made under subsection 1 that affects a highway or a highway right of way that is a connecting link, within the meaning of section 19 of *The Public Transportation and Highway Improvement Act*, shall have no effect until approved by the Minister of Transportation and Communications.

SECTION 2. The office of deputy reeve is abolished in respect of Gloucester and Nepean. The holders of those offices now represent their respective municipalities on the Regional Council. Commencing December 1st, 1980, the representatives of Nepean, other than the head of council, will be directly elected to the Regional Council; the representatives of Gloucester, other than the head of council, will be the two members of council receiving the highest number of votes.

SECTION 3. The effect of the re-enactment is to add section 390*b* as a section of *The Municipal Act* that applies to the Regional Corporation; that section now reads as follows:

*Insurance,
hospital-
ization,
etc.*

390*b*. *The council of every municipality may pass by-laws for providing for any or all of the members of council any benefits that may be provided for the employees of a municipality under paragraphs 66 and 67 of section 352 and for any other benefits of a like nature that the council considers appropriate.*

SECTION 4. The subsection now reads as follows:

(8) Subject to the approval of the Lieutenant Governor in Council, the Regional Corporation shall, on or before the 31st day of October, 1973, pass a by-law consolidating all by-laws relating to the regional road system and shall at intervals of not more than five years thereafter pass similar consolidating by-laws.

The re-enactment deletes the time limits for the passing of consolidating road by-laws that are now found in the subsection.

SECTION 5. Agreements respecting the construction and use of buildings or structures over, across or under regional roads are authorized.

SECTION 6. The subsection as proposed to be re-enacted is set out below showing underlined the words to be added:

- (7) *The Commission shall fix such fares as it considers proper for the use of its passenger transport system and may provide for different levels of fares when a fare is paid to an employee of the Commission on designated vehicles of the Commission.*

This amendment, and those effected by sections 7 and 8 of the Bill, confer additional powers in respect of the regional transportation system felt to be appropriate with the forthcoming use of articulated buses by the Transit Commission and the implementation of an "honour fare system".

SECTION 7. The clause sets out one of the by-law making authorities of the Regional Council and the effect of the re-enactment is to add to the end of the clause as it now reads "including requiring the production of proof of fare payment upon the request of any employee of the Commission".

SECTION 8. Provision is made for the removal of a person from a transit vehicle on the grounds of not holding a valid bus pass or not having paid the proper fare.

SECTION 9. The subsection proposed to be repealed now reads as follows:

- (2) *Section 16 of The Homes for the Aged and Rest Homes Act applies in respect of applicants for admission to a home except that,*
- (a) *the authorization in the prescribed form referred to in clause e of subsection 1 of such section 16 shall be signed by the chairman or by such other person or persons as may be designated by resolution of the Regional Council; and*
- (b) *the statement in the prescribed form referred to in clause h of subsection 1 of such section 16 shall be signed by the welfare officer of the Regional Corporation.*

Changes to *The Homes for the Aged and Rest Homes Act* have made the provision redundant.

SECTION 10. Subsection 2 as proposed to be re-enacted is set out below showing underlined the words to be added:

- (2) *The Regional Council shall ascertain and by by-law direct what portion, expressed in dollars and as a percentage, of the sum mentioned in subsection 1 shall be levied against and in each area municipality.*

SECTION 11. The section proposed to be added affords the Regional Council an optional method of arriving at the apportionment among the area municipalities in its levying by-law where it is of the opinion that the apportionment amongst the area municipalities based on the whole rateable property in each is not equitable. Where such a by-law is passed any area municipality that is not satisfied may appeal to the Municipal Board and the Board will determine the matter and provision is made for any adjustments required by reason of the Board's decision.

6. Subsection 7 of section 67*b* of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 126, section 14, is repealed and the following substituted therefor: s. 67*b* (7),
re-enacted

(7) The Commission shall fix such fares as it considers proper for the use of its passenger transport system and may provide for different levels of fares when a fare is paid to an employee of the Commission on designated vehicles of the Commission. Fares

7. Clause *i* of subsection 4 of section 67*c* of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 126, section 14, is repealed and the following substituted therefor: s. 67*c* (4) (*i*),
re-enacted

- (i) make regulations governing, regulating and controlling the conduct of persons on any vehicle or in or upon any land or structure used for or in connection with passenger transport, including requiring the production of proof of fare payment upon the request of any employee of the Commission. regulations

8. The said Act is further amended by adding thereto the following section: s. 67*ea*,
enacted

67*ea*. Any employee of the Commission may request any person travelling on the passenger transit system to leave the transit vehicle and may use reasonable force to effect the departure of such person from the vehicle if the employee has reason to believe that such person does not hold a valid bus pass and has not paid the proper fare. Removal of
passenger
from transit
vehicle

9. Subsection 2 of section 79 of the said Act is repealed. s. 79 (2),
repealed

10. Subsection 2 of section 92 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 126, section 17, is repealed and the following substituted therefor: s. 92 (2),
re-enacted

(2) The Regional Council shall ascertain and by by-law direct what portion, expressed in dollars and as a percentage, of the sum mentioned in subsection 1 shall be levied against and in each area municipality. Apportionment

11. The said Act is further amended by adding thereto the following section: s. 92*b*,
enacted

92*b*.—(1) Notwithstanding subsection 3 of section 92 and Ontario Regulation 167/80, where the Regional Council is of the opinion that a percentage share as determined by the application of subsection 3 of section 92 is not just and equitable, it may in the by-law passed under subsection 2 of section 92 make an apportionment for Regional purposes that is just and equitable and such by-law shall have appended thereto as a schedule a statement of the apportionment, expressed in dollars and as a percentage, that Alternative
apportionment

would have been made among the area municipalities but for the application of this section.

Copy of
by-law to
area muni-
cipalities

(2) Where the Regional Council makes an apportionment under subsection 1, the clerk of the Regional Corporation shall within ten days forward a copy of the by-law to each area municipality.

Appeal to
O.M.B.

(3) An area municipality that is not satisfied with the by-law passed under subsection 1 may appeal to the Municipal Board within thirty days of the passing of the by-law by giving notice in writing, by registered mail, to the Municipal Board, the clerk of the Regional Municipality, and every other area municipality.

Hearing by
O.M.B.

(4) Upon receipt of the notice of appeal under subsection 3, the Municipal Board shall arrange a time and place for hearing the appeal and shall send a notice thereof by registered mail to all parties concerned in the appeal at least fourteen days before the hearing and shall hear and dispose of the appeal.

Adjustments

(5) Where, as a result of a decision of the Municipal Board under subsection 4, there is an adjustment required to be made, the Regional Council shall forthwith amend the by-law passed under subsection 2 of section 92 so as to make the apportionment among the area municipalities according to the percentage shares as revised by the Municipal Board, and,

(a) where the share levied against an area municipality is thereby increased, the treasurer of the area municipality shall pay the amount of the increase to the treasurer of the Regional Corporation; and

(b) where the share levied against an area municipality is thereby decreased, the treasurer of the area municipality shall be liable to pay the treasurer of the Regional Corporation only the reduced levy or, if the original levy has been paid by the area municipality, the treasurer of the Regional Corporation shall pay the amount of the decrease to the treasurer of the area municipality.

s. 100,
amended

12. Section 100 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 126, section 19, 1976, chapter 43, section 9 and 1976, chapter 70, section 4, is further amended by adding thereto the following subsection :

Premium on
foreign
currency

(19a) Where a by-law passed under this section provides that the debentures are payable in a currency described in clause *b*, *c* or *d* of subsection 18, the by-law may provide that any portion of the premium which may be received on the currency in which the debentures are payable that is not required to pay the cost of the work authorized under the by-law and charges incidental thereto

SECTION 12. Premiums received on the sale of debentures in a foreign currency, not required to pay the cost of the work, are required to be set aside in a reserve fund to be used to pay the premium on the annual principal and interest payments on the debentures.

SECTION 13. The establishment and management of a regional convention centre is authorized together with the levying of a rate against the properties in an area that in the opinion of Council derive a special benefit therefrom to repay all or a part of capital debt and to meet all or a part of any operating deficit.

shall be set aside in a reserve fund to be used to pay the premium on the annual payments of principal and interest on the debentures issued under the by-law.

- 13.** The said Act is further amended by adding thereto the following section: s. 141.
enacted

141.—(1) In this section, Interpre-
tation

(a) “benefit area” means a regional convention centre benefit area established under subsection 7; and

(b) “regional convention centre” means the lands, structures and facilities, including auditoriums, eating establishments and parking garages, designated by the Regional Council under subsection 2.

(2) The Regional Council may designate and establish a regional convention centre and for such purpose the Regional Corporation may, Designation
and
establish-
ment of
regional
convention
centre

(a) acquire, lease and use land;

(b) erect, maintain and operate structures and facilities; and

(c) borrow money by the issue of debentures.

(3) The Regional Council may by by-law establish a board of management for the regional convention centre and appoint to the board such number of persons, each of whom is qualified to hold office as a member of the council of an area municipality, as the Regional Council considers appropriate. Board of
management

(4) Members of the board of management shall hold office at the pleasure of the Regional Council and, unless sooner removed, shall hold office until the expiration of the term of office of the members of the Regional Council that appointed them and until their successors are appointed and are eligible for reappointment. Term of
office

(5) Where a member of the board of management is removed from office before the expiration of his term, the Regional Council may appoint another eligible person for the unexpired portion of his term. Filling of
vacancy

(6) Subject to the provisions of this section, the board of management shall exercise such powers and be subject to such limitations as the Regional Council may by by-law from time to time provide. Powers of
board of
management

(7) The Regional Council may by by-law, Benefit
area

- (a) define one or more parts of the Regional Area as a regional convention centre benefit area that in the opinion of the Council derive special benefit from the operation of the regional convention centre;
- (b) from time to time alter any benefit area when, in the opinion of the Regional Council, a part or parts of the Regional Area not included in the benefit area derive a special benefit from the operation of the regional convention centre or when, in the opinion of the Regional Council, a part or parts of the benefit area no longer derive a special benefit; and
- (c) in each year establish a rate or rates to be levied against the rateable properties in a benefit area sufficient to repay all or a part of any capital debt payable in the year and to meet all or a part of any operating deficit arising from the operation of the regional convention centre in the immediately preceding year.

Schedule

(8) A by-law passed under clause *c* of subsection 7 shall have appended thereto a schedule establishing the amount to be levied against each parcel of land in the benefit area.

Apportionment

(9) The amount chargeable to lands in a benefit area shall be equitably apportioned among all the parcels in accordance with the benefits accruing to a parcel from the establishment of the regional convention centre or in the proportion that the assessment of each parcel bears to the total assessment of the parcels in the benefit area.

Approval of O.M.B.

(10) A by-law passed under clause *a*, *b* or *c* of subsection 7 shall have no force or effect until approved by the Municipal Board.

Collection of rates

(11) Where the Regional Council passes a by-law under clause *c* of subsection 7, the Regional Council may direct the treasurer of the area municipality in which are situate the lands benefitted to add the amounts to the collector's roll and to collect the amounts in the same manner as municipal taxes, and any moneys collected pursuant to this subsection shall be paid over to the treasurer of the Regional Corporation.

Management agreement

(12) The Regional Corporation and an area municipality may enter into one or more agreements for the management of the regional convention centre upon such terms and conditions as may be agreed upon, including provisions whereby any deficit arising from the operation of the regional convention centre or the repayment of debt in respect thereof shall be the responsibility of the area municipality and, where such an agreement is in effect,

subsections 3, 4, 5, 6, 7, 8, 9, 10 and 11 apply with necessary modifications to the council of the area municipality.

- | | | |
|------------|--|------------------|
| 14. | This Act comes into force on the day it receives Royal Assent. | Commence
ment |
| 15. | The short title of this Act is <i>The Regional Municipality of Ottawa-Carleton Amendment Act, 1980</i> . | Short title |

Amendment
The Regional Municipality of
Ottawa-Carleton Act

1st Reading

May 22nd, 1980

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

(Government Bill)

BILL 75

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend
The Regional Municipality of Ottawa-Carleton Act

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

**An Act to amend
The Regional Municipality of Ottawa-Carleton Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 4 of *The Regional Municipality of Ottawa-Carleton Act*, being chapter 407 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1973, chapter 138, section 2 and 1979, chapter 81, section 2, is repealed and the following substituted therefor:

s. 4 (1),
re-enacted

(1) On and after the 1st day of December, 1980, the Regional Council shall consist of thirty-three members composed of a chairman and,

Composition
of
Regional
Council

- (a) the head of council of each area municipality;
- (b) fifteen members of council from the City of Ottawa being the remainder of the council of the City;
- (c) the member of council of the City of Vanier elected by general vote who at the general municipal election next preceding the day the Regional Council is organized in any year received the highest number of votes or, if no member was elected by general vote, then a member appointed by the council of the City of Vanier;
- (d) two members of the council of the Township of Gloucester elected by general vote who at the general municipal election next preceding the day the Regional Council is organized in any year received the highest number of votes, and in the event that either or both of such members decline to accept membership on the Regional Council, the members of the council of the township receiving the next highest number of votes in declining order shall be entitled to be a member or members of the Regional Council; and

- (e) three members of the council of the City of Nepean who have been elected by general vote as members of the Regional Council and of the council of such area municipality.

s. 4 (1a),
repealed

- (2) Subsection 1a of the said section 4, as enacted by the Statutes of Ontario, 1979, chapter 81, section 2, is repealed.

s. 6,
re-enacted

2. Section 6 of the said Act is repealed and the following substituted therefor:

Abolition
of office of
deputy reeve

6. No area municipality which has or is entitled to have a deputy reeve shall, notwithstanding the provisions of any Act, have a deputy reeve on or after the 1st day of December, 1980.

s. 18 (1),
re-enacted

3. Subsection 1 of section 18 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 4, is repealed and the following substituted therefor:

Application
of
R.S.O., 1970,
c. 284

- (1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a and 390b of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 45 (8),
re-enacted

4. Subsection 8 of section 45 of the said Act is repealed and the following substituted therefor:

Consolidating
by-law

- (8) Subject to the approval of the Lieutenant Governor in Council, the Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system.

s. 57a,
enacted

5. The said Act is amended by adding thereto the following section:

Agreements
respecting
buildings,
etc., above
or beneath
regional
roads

- 57a.—(1) The Regional Council may by by-law authorize agreements between the Regional Corporation and the owners or lessees of land abutting on a highway under the jurisdiction and control of the Regional Corporation for the construction, maintenance and use of buildings, structures or parts thereof, over, across or under the highway upon such terms and conditions as may be agreed and for leasing or licensing the use of the air space over the highway or the lands under the highway to such persons and for such consideration and upon such terms and conditions as may be agreed.

Approval of
Minister of
Transporta-
tion and
Communica-
tions
R.S.O., 1970,
c. 201

- (2) An agreement made under subsection 1 that affects a highway or a highway right of way that is a connecting link, within the meaning of section 19 of *The Public Transportation and Highway Improvement Act*, shall have no effect until approved by the Minister of Transportation and Communications.

6. Subsection 7 of section 67*b* of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 126, section 14, is repealed and the following substituted therefor:

s. 67*b* (7),
re-enacted

(7) The Commission shall fix such fares as it considers proper for the use of its passenger transport system and may provide for different levels of fares when a fare is paid to an employee of the Commission on designated vehicles of the Commission.

Fares

7. Clause *i* of subsection 4 of section 67*c* of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 126, section 14, is repealed and the following substituted therefor:

s. 67*c* (4) (*i*),
re-enacted

- (i) make regulations governing, regulating and controlling the conduct of persons on any vehicle or in or upon any land or structure used for or in connection with passenger transport, including requiring the production of proof of fare payment upon the request of any employee of the Commission.

regulations

8. The said Act is further amended by adding thereto the following section:

s. 67*ea*,
enacted

67*ea*. Any employee of the Commission may request any person travelling on the passenger transit system to leave the transit vehicle and may use reasonable force to effect the departure of such person from the vehicle if the employee has reason to believe that such person does not hold a valid bus pass and has not paid the proper fare.

Removal of
passenger
from transit
vehicle

9. Subsection 2 of section 79 of the said Act is repealed.

s. 79 (2),
repealed

10. Subsection 2 of section 92 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 126, section 17, is repealed and the following substituted therefor:

s. 92 (2),
re-enacted

(2) The Regional Council shall ascertain and by by-law direct what portion, expressed in dollars and as a percentage, of the sum mentioned in subsection 1 shall be levied against and in each area municipality.

Apportion-
ment

11. The said Act is further amended by adding thereto the following section:

s. 92*b*,
enacted

92*b*.—(1) Notwithstanding subsection 3 of section 92 and Ontario Regulation 167/80, where the Regional Council is of the opinion that a percentage share as determined by the application of subsection 3 of section 92 is not just and equitable, it may in the by-law passed under subsection 2 of section 92 make an apportionment for Regional purposes that is just and equitable and such by-law shall have appended thereto as a schedule a statement of the apportionment, expressed in dollars and as a percentage, that

Alternative
apportionment

would have been made among the area municipalities but for the application of this section.

Copy of
by-law to
area muni-
cipalities

(2) Where the Regional Council makes an apportionment under subsection 1, the clerk of the Regional Corporation shall within ten days forward a copy of the by-law to each area municipality.

Appeal to
O.M.B.

(3) An area municipality that is not satisfied with the by-law passed under subsection 1 may appeal to the Municipal Board within thirty days of the passing of the by-law by giving notice in writing, by registered mail, to the Municipal Board, the clerk of the Regional Municipality, and every other area municipality.

Hearing by
O.M.B.

(4) Upon receipt of the notice of appeal under subsection 3, the Municipal Board shall arrange a time and place for hearing the appeal and shall send a notice thereof by registered mail to all parties concerned in the appeal at least fourteen days before the hearing and shall hear and dispose of the appeal.

Adjustments

(5) Where, as a result of a decision of the Municipal Board under subsection 4, there is an adjustment required to be made, the Regional Council shall forthwith amend the by-law passed under subsection 2 of section 92 so as to make the apportionment among the area municipalities according to the percentage shares as revised by the Municipal Board, and,

- (a) where the share levied against an area municipality is thereby increased, the treasurer of the area municipality shall pay the amount of the increase to the treasurer of the Regional Corporation; and
- (b) where the share levied against an area municipality is thereby decreased, the treasurer of the area municipality shall be liable to pay the treasurer of the Regional Corporation only the reduced levy or, if the original levy has been paid by the area municipality, the treasurer of the Regional Corporation shall pay the amount of the decrease to the treasurer of the area municipality.

s. 100,
amended

12. Section 100 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 126, section 19, 1976, chapter 43, section 9 and 1976, chapter 70, section 4, is further amended by adding thereto the following subsection :

Premium on
foreign
currency

(19a) Where a by-law passed under this section provides that the debentures are payable in a currency described in clause *b*, *c* or *d* of subsection 18, the by-law may provide that any portion of the premium which may be received on the currency in which the debentures are payable that is not required to pay the cost of the work authorized under the by-law and charges incidental thereto

shall be set aside in a reserve fund to be used to pay the premium on the annual payments of principal and interest on the debentures issued under the by-law.

- 13.** The said Act is further amended by adding thereto the following section: s. 141,
enacted

141.—(1) In this section,

Interpre-
tation

(a) “benefit area” means a regional convention centre benefit area established under subsection 7; and

(b) “regional convention centre” means the lands, structures and facilities, including auditoriums, eating establishments and parking garages, designated by the Regional Council under subsection 2.

(2) The Regional Council may designate and establish a regional convention centre and for such purpose the Regional Corporation may, Designation
and
establish-
ment of
regional
convention
centre

(a) acquire, lease and use land;

(b) erect, maintain and operate structures and facilities; and

(c) borrow money by the issue of debentures.

(3) The Regional Council may by by-law establish a board of management for the regional convention centre and appoint to the board such number of persons, each of whom is qualified to hold office as a member of the council of an area municipality, as the Regional Council considers appropriate. Board of
management

(4) Members of the board of management shall hold office at the pleasure of the Regional Council and, unless sooner removed, shall hold office until the expiration of the term of office of the members of the Regional Council that appointed them and until their successors are appointed and are eligible for reappointment. Term of
office

(5) Where a member of the board of management is removed from office before the expiration of his term, the Regional Council may appoint another eligible person for the unexpired portion of his term. Filling of
vacancy

(6) Subject to the provisions of this section, the board of management shall exercise such powers and be subject to such limitations as the Regional Council may by by-law from time to time provide. Powers of
board of
management

(7) The Regional Council may by by-law,

Benefit
area

- (a) define one or more parts of the Regional Area as a regional convention centre benefit area that in the opinion of the Council derive special benefit from the operation of the regional convention centre;
- (b) from time to time alter any benefit area when, in the opinion of the Regional Council, a part or parts of the Regional Area not included in the benefit area derive a special benefit from the operation of the regional convention centre or when, in the opinion of the Regional Council, a part or parts of the benefit area no longer derive a special benefit; and
- (c) in each year establish a rate or rates to be levied against the rateable properties in a benefit area sufficient to repay all or a part of any capital debt payable in the year and to meet all or a part of any operating deficit arising from the operation of the regional convention centre in the immediately preceding year.

Schedule

(8) A by-law passed under clause *c* of subsection 7 shall have appended thereto a schedule establishing the amount to be levied against each parcel of land in the benefit area.

Apportionment

(9) The amount chargeable to lands in a benefit area shall be equitably apportioned among all the parcels in accordance with the benefits accruing to a parcel from the establishment of the regional convention centre or in the proportion that the assessment of each parcel bears to the total assessment of the parcels in the benefit area.

Approval of O.M.B.

(10) A by-law passed under clause *a*, *b* or *c* of subsection 7 shall have no force or effect until approved by the Municipal Board.

Collection of rates

(11) Where the Regional Council passes a by-law under clause *c* of subsection 7, the Regional Council may direct the treasurer of the area municipality in which are situate the lands benefitted to add the amounts to the collector's roll and to collect the amounts in the same manner as municipal taxes, and any moneys collected pursuant to this subsection shall be paid over to the treasurer of the Regional Corporation.

Management agreement

(12) The Regional Corporation and an area municipality may enter into one or more agreements for the management of the regional convention centre upon such terms and conditions as may be agreed upon, including provisions whereby any deficit arising from the operation of the regional convention centre or the repayment of debt in respect thereof shall be the responsibility of the area municipality and, where such an agreement is in effect,

subsections 3, 4, 5, 6, 7, 8, 9, 10 and 11 apply with necessary modifications to the council of the area municipality.

- | | | |
|------------|--|-------------------|
| 14. | This Act comes into force on the day it receives Royal Assent. | Commence-
ment |
| 15. | The short title of this Act is <i>The Regional Municipality of Ottawa-Carleton Amendment Act, 1980</i> . | Short title |

An Act to amend
The Regional Municipality of
Ottawa-Carleton Act

1st Reading

May 22nd, 1980

2nd Reading

June 5th, 1980

3rd Reading

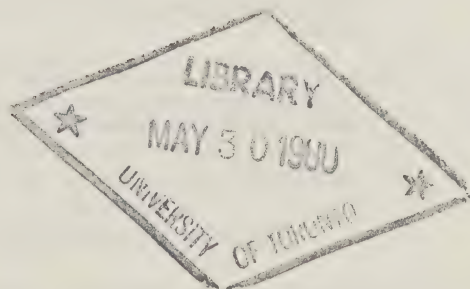
June 19th, 1980

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

4TH SESSION, 31ST LEGISLATURE, ^TONTARIO
29 ELIZABETH II, 1980

**An Act to amend
The Municipality of Metropolitan Toronto Act**

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

GENERAL. The purposes of the Bill are:

1. To provide for additional representatives on the Metropolitan Council (s.1).
2. To empower the Executive Committee to sell land declared by the Metropolitan Council to be surplus to the needs of the Metropolitan Corporation (s.2).
3. To authorize the payment of benefits to members of the Metropolitan Council (s.3).
4. To authorize the processing of waste products as a renewable resource (s.4).
5. To amend the provisions requiring the approval of the Metropolitan Council to the proposal of an area municipality to stop up a highway to include requiring such approval to a proposal to alter or divert a highway and to require similar approval to a proposal to prescribe one-way traffic on a highway intersecting a metropolitan road (ss.5 and 6).
6. To amend two existing provisions of the Act to recognize legislative changes which have been made to *The Homes for the Aged and Rest Homes Act* (ss.7 and 8).
7. To authorize the conduct of a public education program on emergency first aid (s.9).
8. To authorize the chairman and treasurer to negotiate and enter into agreements respecting the issue and sale of debentures when the Municipal Board has authorized the borrowing (s.10).

SECTION 1. The effect of the re-enactment is to increase the membership on the Metropolitan Council, in the case of the City of North York, from 9 members to 10 members and in the case of the Borough of Scarborough, from 6 members to 7 members.

SECTION 2. The section proposed to be added empowers the Metropolitan Council to authorize the Executive Committee to sell lands that are declared by the Council to be no longer required for the purposes of the Metropolitan Corporation.

BILL 76

1980

An Act to amend The Municipality of Metropolitan Toronto Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 5 of *The Municipality of Metropolitan Toronto Act*, being chapter 295 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1974, chapter 42, section 1, is repealed and the following substituted therefor: s. 5 (1),
re-enacted

(1) On and after the 1st day of December, 1980, the area municipalities are entitled to the following membership on the Metropolitan Council: Metropolitan
Council
membership

the Borough of East York	—	2 members
the Borough of Etobicoke	—	5 members
the City of North York	—	10 members
the Borough of Scarborough	—	7 members
the City of Toronto	—	12 members
the Borough of York	—	3 members

2. The said Act is amended by adding thereto the following section: s. 12a,
enacted

12a.—(1) The Metropolitan Council may by by-law authorize the Executive Committee for such period or periods of time and upon such terms and conditions as the by-law specifies to sell land which the Metropolitan Council has declared to be no longer required for the purposes of the Metropolitan Corporation. Sale of
surplus
land

(2) Section 338 of *The Municipal Act* applies with necessary modifications to the Executive Committee in the exercise of an authority provided for in subsection 1. Application of
R.S.O. 1970,
c. 284, s. 338

(3) The Executive Committee shall report each sale made under subsection 1 to the Metropolitan Council not later than the Report

second regular meeting of the Metropolitan Council next following the closing of each sale.

s. 17 (1),
re-enacted

3. Subsection 1 of section 17 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 64, section 1, is repealed and the following substituted therefor:

Application of
R.S.O. 1970,
c. 284

(1) Sections 192, 193, 195, 197, 198, 201, subsection 1 of section 224, sections 243, 259, 281 to 286, 349, 350, paragraphs 66 and 67 of section 352, and sections 388, 389, 389*a* to 389*e*, 390, 390*a*, 390*b* and 391 of *The Municipal Act* apply with necessary modifications to the Metropolitan Corporation.

s. 65*a*,
enacted

4. The said Act is further amended by adding thereto the following section:

Products
from
industrial
waste, etc.

65*a*.—(1) The Metropolitan Corporation may erect, maintain and operate buildings, structures, machinery or equipment for the purpose of recovering, manufacturing, producing, supplying, selling or distributing from domestic or industrial sewage or waste any product, resource, commodity, electrical power or energy, hot water or steam, and for such purposes may,

- (a) enter into agreements with any person;
- (b) carry on investigations, experiments, research or development;
- (c) construct and maintain pipes, apparatus, and equipment on, over, under or across any highway or private property with the consent of the owner of such private property; and
- (d) acquire any patent or licence or any interest in any patent or licence, or dispose of any patent or licence by sale or otherwise.

R.S.O. 1970,
c. 289,
not to apply

(2) *The Municipal Franchises Act* does not apply to any act of the Metropolitan Corporation under this section.

s. 96 (1),
re-enacted

- 5.—(1) Subsection 1 of section 96 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 42, section 6, is repealed and the following substituted therefor:

Stopping-up,
etc.,
highways

(1) Where an area municipality intends to stop up, alter or divert a highway or part of a highway, it shall so notify the clerk of the Metropolitan Corporation by registered mail.

s. 96 (2),
re-enacted

(2) Subsection 2 of the said section 96, as re-enacted by the Statutes of Ontario, 1974, chapter 42, section 6 and amended by

SECTION 3. The effect of the re-enactment is to add section 390b as a section of *The Municipal Act* that applies to the Metropolitan Corporation; that section reads as follows:

*Insurance,
hospi-
talization,
etc.*

390b. The council of every municipality may pass by-laws for providing for any or all of the members of council any benefits that may be provided for the employees of a municipality under paragraphs 66 and 67 of section 352 and for any other benefits of a like nature that the council considers appropriate.

SECTION 4. The section proposed to be added empowers the Metropolitan Corporation to exercise the powers set out therein in respect of recovering and selling products and commodities derived from sewage or waste.

SECTION 5.—Subsection 1. Subsection 1 of section 96, as proposed to be re-enacted, is set out below showing underlined the words to be added:

- (1) Where an area municipality intends to stop up, alter or divert a highway or part of a highway, it shall so notify the clerk of the Metropolitan Corporation by registered mail.*

Subsection 2. The re-enacted subsection 2 of section 96 reflects the same change as that made to subsection 1; that is, a reference to the altering or diverting of a highway is added.

Subsection 3. The Executive Committee may be authorized by Council to exercise the Council's powers under section 96, subject to subsequent confirmation.

SECTION 6. The section proposed to be added requires the concurrence of the Metropolitan Council where an area municipality intends to prescribe one-way traffic on an area highway that intersects with a metropolitan road or to repeal a by-law that prescribes such one-way traffic.

SECTION 7. The subsection proposed to be repealed now reads as follows:

- (2) *Section 16 of The Homes for the Aged and Rest Homes Act applies in respect of applicants for admission to a home for the aged of the Metropolitan Corporation except that,*
 - (a) *the authorization in the prescribed form referred to in clause e of that section shall be signed by the chairman or by such other person or persons as may be designated by resolution of the Metropolitan Council;*
 - (b) *the statement in the prescribed form referred to in clause h of that section shall be signed by the welfare officer of the Metropolitan Corporation.*

Changes to *The Homes for the Aged and Rest Homes Act* have made the subsection redundant.

SECTION 8. Section 158 of the Act now reads as follows:

- 158. *The Metropolitan Corporation is liable for the maintenance of indigent persons in nursing homes awaiting accommodation in a home for the aged of the Metropolitan Corporation from the day admission to such home for the aged has been authorized under clause e of section 16 of The Homes for the Aged and Rest Homes Act.*

The re-enactment is complementary to section 7 of the Bill.

SECTION 9. Section 173 of the Act sets out the powers of the Metropolitan Council in respect of the provision of ambulance services; the clause added will authorize the conduct of a public education program on emergency first aid.

1975, chapter 22, section 2, is repealed and the following substituted therefor:

(2) If the Metropolitan Council objects to such stopping-up, Agreement altering or diverting, it shall so notify the council of the area municipality by registered mail within sixty days of the receipt of the notice under subsection 1 and the highway or part thereof concerned shall not be stopped-up, altered or diverted except by agreement between the area municipality and the Metropolitan Council and failing agreement the Municipal Board, upon application, may determine the matter and its decision is final.

(3) The said section 96 is amended by adding thereto the following subsection: s. 96, amended

(2a) For the purposes of giving notice under subsection 2, the Metropolitan Council may by by-law authorize the Executive Committee, for such period of time as the by-law specifies, to exercise the powers of the Metropolitan Council, but no such notice is valid unless confirmed at the next regular meeting of the Metropolitan Council. Authorization to Executive Committee

6. The said Act is further amended by adding thereto the following section: s. 96a, enacted

96a. Where an area municipality intends to prohibit traffic in any but one direction on a highway which intersects with a metropolitan road, or to repeal any such by-law, it shall so notify the clerk of the Metropolitan Corporation by registered mail, and the provisions of subsections 2 and 2a of section 96 apply with necessary modifications to such proposal. One-way traffic on highways

7. Subsection 2 of section 157 of the said Act is repealed. s. 157 (2), repealed

8. Section 158 of the said Act is repealed and the following substituted therefor: s. 158, re-enacted

158. The Metropolitan Corporation is liable for the maintenance of indigent persons in nursing homes awaiting accommodation in a home for the aged of the Metropolitan Corporation from the day admission to such home for the aged has been authorized by the committee of management thereof. Liability respecting indigent persons awaiting accommodation in home for the aged

9. Subsection 1 of section 173 of the said Act is amended by adding thereto the following clause: s. 173 (1), amended

(e) provide a public education program to give instruction in and disseminate information in respect of emergency first aid and basic life support techniques and charge a fee for the program provided.

s. 221,
enacted

- 10.** The said Act is further amended by adding thereto the following section:

Agreement
for
issue and
sale of
debentures

221.—(1) Notwithstanding any other provisions in this Act or any other general or special Act, when the Municipal Board has authorized the borrowing of money and the issue of debentures by the Metropolitan Corporation for its purposes or for the purposes of any area municipality or board of education, the Metropolitan Council may by by-law authorize the chairman and treasurer subject to such terms and conditions as the by-law specifies to enter into an agreement or agreements, upon such terms and conditions including price or prices as the chairman and the treasurer consider expedient, with any person or persons at any time in the year in which the by-law is passed for the issue and sale of debentures.

Maximum
amount of
money

(2) A by-law passed under subsection 1 shall set out the maximum amount of money which may be raised by the issue and sale of debentures under such by-law.

Report

(3) Where an agreement has been entered into in accordance with subsection 1, the treasurer shall report the terms of the agreement to the Metropolitan Council not later than the second regular council meeting next following the entering into of the agreement.

Passage of
money
by-laws

(4) Where the chairman and treasurer have entered into an agreement or agreements authorized under subsection 1, the Metropolitan Council shall pass all necessary money by-laws in accordance with section 223 and with such agreement or agreements.

Commence-
ment

- 11.** This Act comes into force on the day it receives Royal Assent.

Short title

- 12.** The short title of this Act is *The Municipality of Metropolitan Toronto Amendment Act, 1980*.

SECTION 10. The section added authorizes the chairman and treasurer to negotiate and enter into agreements, in the manner set out, for the issue and sale of debentures when the Municipal Board has authorized the borrowing.

**An Act to amend The Municipality of
Metropolitan Toronto Act**

1st Reading

May 22nd, 1980

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

(Government Bill)

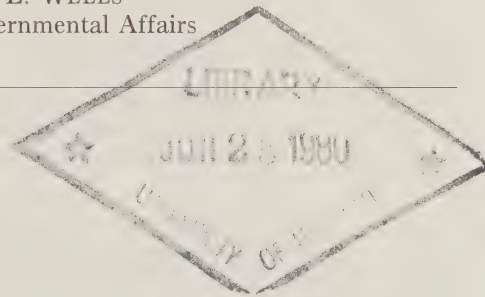
BILL 76

Government Bill

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend
The Municipality of Metropolitan Toronto Act

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs



(Reprinted as amended by the General Government Committee)

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

GENERAL. The purposes of the Bill are:

1. To provide for additional representatives on the Metropolitan Council (s.1).
2. To empower the Executive Committee to sell land declared by the Metropolitan Council to be surplus to the needs of the Metropolitan Corporation (s.2).
3. To authorize the payment of benefits to members of the Metropolitan Council (s.3).
4. To authorize the processing of waste products as a renewable resource (s.4).
5. To authorize the Executive Committee to exercise the powers of the Metropolitan Council under section 96 of the Act, subject to subsequent confirmation (s. 5).
6. To amend two existing provisions of the Act to recognize legislative changes which have been made to *The Homes for the Aged and Rest Homes Act* (ss. 6 and 7).
7. To authorize the conduct of a public education program on emergency first aid (s. 8).
8. To authorize the chairman and treasurer to negotiate and enter into agreements respecting the issue and sale of debentures when the Municipal Board has authorized the borrowing (s. 9).

SECTION 1. The effect of the re-enactment is to increase the membership on the Metropolitan Council, in the case of the City of North York, from 9 members to 10 members and in the case of the Borough of Scarborough, from 6 members to 7 members.

SECTION 2. The section proposed to be added empowers the Metropolitan Council to authorize the Executive Committee to sell lands that are declared by the Council to be no longer required for the purposes of the Metropolitan Corporation.

BILL 76

1980

An Act to amend The Municipality of Metropolitan Toronto Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 5 of *The Municipality of Metropolitan Toronto Act*, being chapter 295 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1974, chapter 42, section 1, is repealed and the following substituted therefor:

s. 5 (1),
re-enacted

(1) On and after the 1st day of December, 1980, the area municipalities are entitled to the following membership on the Metropolitan Council:

Metropolitan
Council
membership

the Borough of East York	—	2 members
the Borough of Etobicoke	—	5 members
the City of North York	—	10 members
the Borough of Scarborough	—	7 members
the City of Toronto	—	12 members
the Borough of York	—	3 members

2. The said Act is amended by adding thereto the following section:

s. 12a,
enacted

12a.—(1) The Metropolitan Council may by by-law authorize the Executive Committee for such period or periods of time and upon such terms and conditions as the by-law specifies to sell land which the Metropolitan Council has declared to be no longer required for the purposes of the Metropolitan Corporation.

Sale of
surplus
land

(2) Section 338 of *The Municipal Act* applies with necessary modifications to the Executive Committee in the exercise of an authority provided for in subsection 1.

Application of
R.S.O. 1970,
c. 284, s. 338

(3) The Executive Committee shall report each sale made under subsection 1 to the Metropolitan Council not later than the

Report

second regular meeting of the Metropolitan Council next following the closing of each sale.

s. 17 (1),
re-enacted

3. Subsection 1 of section 17 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 64, section 1, is repealed and the following substituted therefor:

Application of
R.S.O. 1970,
c. 284

(1) Sections 192, 193, 195, 197, 198, 201, subsection 1 of section 224, sections 243, 259, 281 to 286, 349, 350, paragraphs 66 and 67 of section 352, and sections 388, 389, 389*a* to 389*e*, 390, 390*a*, 390*b* and 391 of *The Municipal Act* apply with necessary modifications to the Metropolitan Corporation.

s. 65*a*,
enacted

4. The said Act is further amended by adding thereto the following section:

Products
from
industrial
waste, etc.

65*a*.—(1) The Metropolitan Corporation may erect, maintain and operate buildings, structures, machinery or equipment for the purpose of recovering, manufacturing, producing, supplying, selling or distributing from domestic or industrial sewage or waste any product, resource, commodity, electrical power or energy, hot water or steam, and for such purposes may,

- (a) enter into agreements with any person;
- (b) carry on investigations, experiments, research or development;
- (c) construct and maintain pipes, apparatus, and equipment on, over, under or across any highway or private property with the consent of the owner of such private property; and
- (d) acquire any patent or licence or any interest in any patent or licence, or dispose of any patent or licence by sale or otherwise.

R.S.O. 1970,
c. 289,
not to apply

(2) *The Municipal Franchises Act* does not apply to any act of the Metropolitan Corporation under this section.

s. 96,
amended

5. Section 96 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 42, section 6 and amended by 1975, chapter 22, section 2, is further amended by adding thereto the following subsection:

Authorization
to Executive
Committee

(2*a*) For the purposes of giving notice under subsection 2, the Metropolitan Council may by by-law authorize the Executive Committee, for such period of time as the by-law specifies, to exercise the powers of the Metropolitan Council, but no such notice is valid unless confirmed at the next regular meeting of the Metropolitan Council.

SECTION 3. The effect of the re-enactment is to add section 390*b* as a section of *The Municipal Act* that applies to the Metropolitan Corporation; that section reads as follows:

*Insurance,
hospi-
talization,
etc.*

390b. The council of every municipality may pass by-laws for providing for any or all of the members of council any benefits that may be provided for the employees of a municipality under paragraphs 66 and 67 of section 352 and for any other benefits of a like nature that the council considers appropriate.

SECTION 4. The section proposed to be added empowers the Metropolitan Corporation to exercise the powers set out therein in respect of recovering and selling products and commodities derived from sewage or waste.

SECTION 5. The Executive Committee may be authorized by Council to exercise the Council's powers under section 96, subject to subsequent confirmation.

SECTION 6. The subsection proposed to be repealed now reads as follows:

- (2) *Section 16 of The Homes for the Aged and Rest Homes Act applies in respect of applicants for admission to a home for the aged of the Metropolitan Corporation except that,*
- (a) *the authorization in the prescribed form referred to in clause e of that section shall be signed by the chairman or by such other person or persons as may be designated by resolution of the Metropolitan Council;*
 - (b) *the statement in the prescribed form referred to in clause h of that section shall be signed by the welfare officer of the Metropolitan Corporation.*

Changes to *The Homes for the Aged and Rest Homes Act* have made the subsection redundant.

SECTION 7. Section 158 of the Act now reads as follows:

158. *The Metropolitan Corporation is liable for the maintenance of indigent persons in nursing homes awaiting accommodation in a home for the aged of the Metropolitan Corporation from the day admission to such home for the aged has been authorized under clause e of section 16 of The Homes for the Aged and Rest Homes Act.*

The re-enactment is complementary to section 6 of the Bill.

SECTION 8. Section 173 of the Act sets out the powers of the Metropolitan Council in respect of the provision of ambulance services; the clause added will authorize the conduct of a public education program on emergency first aid.

SECTION 9. The section added authorizes the chairman and treasurer to negotiate and enter into agreements, in the manner set out, for the issue and sale of debentures when the Municipal Board has authorized the borrowing.

6. Subsection 2 of section 157 of the said Act is repealed. s. 157 (2),
repealed
7. Section 158 of the said Act is repealed and the following substituted therefor: s. 158,
re-enacted
158. The Metropolitan Corporation is liable for the maintenance of indigent persons in nursing homes awaiting accommodation in a home for the aged of the Metropolitan Corporation from the day admission to such home for the aged has been authorized by the committee of management thereof. Liability
respecting
indigent
persons
awaiting
accommodation
in home for
the aged
8. Subsection 1 of section 173 of the said Act is amended by adding thereto the following clause: s. 173 (1),
amended
- (e) provide a public education program to give instruction in and disseminate information in respect of emergency first aid and basic life support techniques and charge a fee for the program provided.
9. The said Act is further amended by adding thereto the following section: s. 221,
enacted
- 221.—(1) Notwithstanding any other provisions in this Act or any other general or special Act, when the Municipal Board has authorized the borrowing of money and the issue of debentures by the Metropolitan Corporation for its purposes or for the purposes of any area municipality or board of education, the Metropolitan Council may by by-law authorize the chairman and treasurer subject to such terms and conditions as the by-law specifies to enter into an agreement or agreements, upon such terms and conditions including price or prices as the chairman and the treasurer consider expedient, with any person or persons at any time in the year in which the by-law is passed for the issue and sale of debentures. Agreement
for
issue and
sale of
debentures
- (2) A by-law passed under subsection 1 shall set out the maximum amount of money which may be raised by the issue and sale of debentures under such by-law. Maximum
amount of
money
- (3) Where an agreement has been entered into in accordance with subsection 1, the treasurer shall report the terms of the agreement to the Metropolitan Council not later than the second regular council meeting next following the entering into of the agreement. Report
- (4) Where the chairman and treasurer have entered into an agreement or agreements authorized under subsection 1, the Metropolitan Council shall pass all necessary money by-laws in accordance with section 223 and with such agreement or agreements. Passage of
money
by-laws

Commence-
ment

10. This Act comes into force on the day it receives Royal Assent.

Short title

11. The short title of this Act is *The Municipality of Metropolitan Toronto Amendment Act, 1980*.



An Act to amend The Municipality of
Metropolitan Toronto Act

1st Reading

May 22nd, 1980

2nd Reading

June 6th, 1980

3rd Reading

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

*(Reprinted as amended by
the General Government Committee)*

4TH SESSION, 31ST LEGISLATURE, ¹ONTARIO
29 ELIZABETH II, 1980 *Legislature Assembly*

**An Act to amend
The Municipality of Metropolitan Toronto Act**

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs





BILL 76

1980

An Act to amend The Municipality of Metropolitan Toronto Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 5 of *The Municipality of Metropolitan Toronto Act*, being chapter 295 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1974, chapter 42, section 1, is repealed and the following substituted therefor:

s. 5 (1),
re-enacted

(1) On and after the 1st day of December, 1980, the area municipalities are entitled to the following membership on the Metropolitan Council:

Metropolitan
Council
membership

the Borough of East York	— 2 members
the Borough of Etobicoke	— 5 members
the City of North York	— 10 members
the Borough of Scarborough	— 7 members
the City of Toronto	— 12 members
the Borough of York	— 3 members

2. The said Act is amended by adding thereto the following section:

s. 12a,
enacted

12a.—(1) The Metropolitan Council may by by-law authorize the Executive Committee for such period or periods of time and upon such terms and conditions as the by-law specifies to sell land which the Metropolitan Council has declared to be no longer required for the purposes of the Metropolitan Corporation.

Sale of
surplus
land

(2) Section 338 of *The Municipal Act* applies with necessary modifications to the Executive Committee in the exercise of an authority provided for in subsection 1.

Application of
R.S.O. 1970,
c. 284, s. 338

(3) The Executive Committee shall report each sale made under subsection 1 to the Metropolitan Council not later than the

Report

second regular meeting of the Metropolitan Council next following the closing of each sale.

s. 17 (1),
re-enacted

3. Subsection 1 of section 17 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 64, section 1, is repealed and the following substituted therefor:

Application of
R.S.O. 1970,
c. 284

(1) Sections 192, 193, 195, 197, 198, 201, subsection 1 of section 224, sections 243, 259, 281 to 286, 349, 350, paragraphs 66 and 67 of section 352, and sections 388, 389, 389*a* to 389*e*, 390, 390*a*, 390*b* and 391 of *The Municipal Act* apply with necessary modifications to the Metropolitan Corporation.

s. 65*a*,
enacted

4. The said Act is further amended by adding thereto the following section:

Products
from
industrial
waste, etc.

65*a*.—(1) The Metropolitan Corporation may erect, maintain and operate buildings, structures, machinery or equipment for the purpose of recovering, manufacturing, producing, supplying, selling or distributing from domestic or industrial sewage or waste any product, resource, commodity, electrical power or energy, hot water or steam, and for such purposes may,

- (a) enter into agreements with any person;
- (b) carry on investigations, experiments, research or development;
- (c) construct and maintain pipes, apparatus, and equipment on, over, under or across any highway or private property with the consent of the owner of such private property; and
- (d) acquire any patent or licence or any interest in any patent or licence, or dispose of any patent or licence by sale or otherwise.

R.S.O. 1970,
c. 289,
not to apply

(2) *The Municipal Franchises Act* does not apply to any act of the Metropolitan Corporation under this section.

s. 96,
amended

5. Section 96 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 42, section 6 and amended by 1975, chapter 22, section 2, is further amended by adding thereto the following subsection:

Authorization
to Executive
Committee

(2*a*) For the purposes of giving notice under subsection 2, the Metropolitan Council may by by-law authorize the Executive Committee, for such period of time as the by-law specifies, to exercise the powers of the Metropolitan Council, but no such notice is valid unless confirmed at the next regular meeting of the Metropolitan Council.

6. Subsection 2 of section 157 of the said Act is repealed. s. 157 (2), repealed
7. Section 158 of the said Act is repealed and the following substituted therefor: s. 158, re-enacted
158. The Metropolitan Corporation is liable for the maintenance of indigent persons in nursing homes awaiting accommodation in a home for the aged of the Metropolitan Corporation from the day admission to such home for the aged has been authorized by the committee of management thereof. Liability respecting indigent persons awaiting accommodation in home for the aged
8. Subsection 1 of section 173 of the said Act is amended by adding thereto the following clause: s. 173 (1), amended
- (e) provide a public education program to give instruction in and disseminate information in respect of emergency first aid and basic life support techniques and charge a fee for the program provided.
9. The said Act is further amended by adding thereto the following section: s. 221, enacted
- 221.—(1) Notwithstanding any other provisions in this Act or any other general or special Act, when the Municipal Board has authorized the borrowing of money and the issue of debentures by the Metropolitan Corporation for its purposes or for the purposes of any area municipality or board of education, the Metropolitan Council may by by-law authorize the chairman and treasurer subject to such terms and conditions as the by-law specifies to enter into an agreement or agreements, upon such terms and conditions including price or prices as the chairman and the treasurer consider expedient, with any person or persons at any time in the year in which the by-law is passed for the issue and sale of debentures. Agreement for issue and sale of debentures
- (2) A by-law passed under subsection 1 shall set out the maximum amount of money which may be raised by the issue and sale of debentures under such by-law. Maximum amount of money
- (3) Where an agreement has been entered into in accordance with subsection 1, the treasurer shall report the terms of the agreement to the Metropolitan Council not later than the second regular council meeting next following the entering into of the agreement. Report
- (4) Where the chairman and treasurer have entered into an agreement or agreements authorized under subsection 1, the Metropolitan Council shall pass all necessary money by-laws in accordance with section 223 and with such agreement or agreements. Passage of money by-laws

Commence-
ment

10. This Act comes into force on the day it receives Royal Assent.

Short title

11. The short title of this Act is *The Municipality of Metropolitan Toronto Amendment Act, 1980*.

An Act to amend The Municipality of
Metropolitan Toronto Act

1st Reading

May 22nd, 1980

2nd Reading

June 6th, 1980

3rd Reading

June 19th, 1980

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

4TH SESSION, 31ST LEGISLATURE, ¹ONTARIO
29 ELIZABETH II, 1980

Legislative Assembly

An Act respecting the Age of Mandatory Retirement

MR. LELUK



EXPLANATORY NOTES

The purpose of the Bill is to ensure that no person shall be required to retire before reaching the age of seventy where the person is willing and capable of performing his or her job.

SECTION 1. *The Employment Standards Act, 1974* is amended to prohibit an employer from including mandatory retirement below the age of seventy as a term or condition of a benefit plan offered to employees.

SECTION 2. *The Ontario Human Rights Code* is amended to specifically prevent an employer from establishing a mandatory retirement age below the age of seventy as a term or condition of employment. The Code is also amended to limit the scope of a provision creating an exception for mandatory retirement policies from the prohibition against discrimination on the basis of age in employment practices.

BILL 77

1980

An Act respecting the Age of Mandatory Retirement

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Section 34 of *The Employment Standards Act, 1974*, ^{1974, c. 112, s. 34,} being chapter 112, is amended by adding thereto the ^{amended} following subsection:

(2a) No employer or person acting directly on behalf of an employer shall provide, furnish or offer any fund, plan, arrangement or benefit that includes, as a term or condition thereof, a requirement that the employee shall retire upon attaining a specified retirement age, by reason only of having attained that age, where the retirement age is less than seventy years. ^{Mandatory retirement age}

- (2) Subsection 3 of the said section 34 is amended by adding ^{s. 34 (3), amended} at the end thereof "or 2a".

- (3) Subsection 4 of the said section 34 is amended by in- ^{s. 34 (4), amended}serting after "2" in the fourth line "or 2a".

- 2.—(1) Section 4 of *The Ontario Human Rights Code*, being chapter 318 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1972, chapter 119, section 5 and amended by 1974, chapter 73, sections 2 and 3, is further amended by adding thereto the following subsection:

(10) Nothing in subsection 9 shall be construed to authorize a term or condition in a superannuation or pension fund or plan that requires an employee to retire upon attaining a specified retirement age, by reason only of having attained that age, where the retirement age is less than seventy years. ^{Mandatory retirement age}

s. 4b,
enacted

- (2) The said Act is amended by adding thereto the following section:

Mandatory
retirement

4b. No person shall, as a term or condition of employment, require an employee to retire upon attaining a specified retirement age, by reason only of having attained that age, where the retirement age is less than seventy years.

s. 19 (a),
re-enacted

- (3) Clause *a* of section 19 of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 119, section 14, is repealed and the following substituted therefor:

(a) "age" means any age of forty years or more and less than seventy years.

R.S.O. 1970,
c. 342, s. 21,
amended

3. Section 21 of *The Pension Benefits Act*, being chapter 342 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1973, chapter 113, section 4, is further amended by adding thereto the following subsections:

Mandatory
retirement
provision

(10a) A pension plan filed for registration in accordance with section 18 shall not require, as a term or condition thereof, that an employee shall retire upon attaining a specified retirement age, by reason only of having attained that age, where the retirement age is less than seventy years.

Plans
amended

(10b) Every pension plan filed for registration prior to the day *The Age of Retirement Act, 1978* comes into force that requires, as a term or condition thereof, the retirement of an employee at an age less than seventy years shall be deemed to require retirement at seventy years of age.

R.S.O. 1970,
c. 386, s. 17,
re-enacted

4. Section 17 of *The Public Service Act*, being chapter 386 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 96, section 5, is repealed and the following substituted therefor:

Age of
retirement

17. Every civil servant shall retire at the end of the month in which he attains the age of seventy years, but where, in the opinion of the Commission, special circumstances exist and where his deputy minister so requests in writing, he may be reappointed by the Lieutenant Governor in Council for one or more periods not exceeding one year at a time thereafter.

Commence-
ment

5. This Act comes into force on the 1st day of January, 1981.

Short title

6. The short title of this Act is *The Age of Retirement Act, 1980*.

SECTION 3. *The Pension Benefits Act* is amended to prevent the registration of a pension plan containing a term or condition requiring the retirement of persons under the age of seventy.

SECTION 4. *The Public Service Act* is amended to raise the age of mandatory retirement from sixty-five years to seventy years.

An Act respecting the
Age of Mandatory Retirement

1st Reading

May 22nd, 1980

2nd Reading

3rd Reading

MR. LELUK

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Legislative Assembly

An Act respecting the
Ontario Wilderness Guides Association

MR. JOHNSTON
(Scarborough West)



EXPLANATORY NOTE

The purpose of the Bill is to provide for the establishment of standards for wilderness guides and leaders and standards of safety applicable to outdoor activities that relate to the wilderness. The Bill provides statutory recognition to the Ontario Wilderness Guides Association as an association established for the purpose of promoting and maintaining standards of professional guiding. The Bill further provides that the Lieutenant Governor in Council may make regulations respecting standards of safety applicable to wilderness activities by adopting all or part of the standards established by the Association.

BILL 78

1980

An Act respecting the Ontario Wilderness Guides Association

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, "Association" means the Ontario Wilderness Guides Association. Interpretation

2. The Ontario Wilderness Guides Association is hereby recognized as an association established for the purpose of promoting and maintaining standards of professional guiding emphasizing experience, skill development, safe practices, preservation of the natural environment and leadership in order to ensure safe, rewarding adventures of a wilderness nature for the public. Ontario Wilderness Guides Association

3.—(1) The Association may, by by-law, establish standards for wilderness guides and leaders and standards of safety applicable to outdoor activities that relate to the wilderness including canoeing, climbing, back-packing, snowshoeing and cross-country ski touring. By-law

(2) The power conferred by subsection 1 is in addition to any other power to make by-laws conferred upon the Association by its constitution. Other powers

4. The Lieutenant Governor in Council may make regulations adopting in whole or in part the standards of the Association referred to in subsection 1 of section 3. Regulations

5. This Act comes into force on the day it receives Royal Assent. Commencement

6. The short title of this Act is *The Ontario Wilderness Guides Association Act, 1980*. Short title

An Act respecting the
Ontario Wilderness Guides Association

1st Reading

May 22nd, 1980

2nd Reading

3rd Reading

MR. JOHNSTON
(Scarborough West)

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Legislative Assembly

**An Act to license and regulate
Wild Animal and Reptile Sanctuaries**

MR. VAN HORNE



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to provide for the licensing and regulation of wild animal and reptile sanctuaries. The Bill prohibits the operation of a wild animal or reptile sanctuary in Ontario except under the authority of a licence issued by the Minister of Natural Resources. The Bill provides that a person who is licensed to keep a wild animal or reptile in captivity must comply with certain safety and health-related requirements, including a requirement that the pens in which wild animals and reptiles are kept be constructed in a manner that will prevent such animals and reptiles from escaping.

BILL 79

1980

An Act to license and regulate Wild Animal and Reptile Sanctuaries

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “inspector” means an inspector appointed for the purposes of this Act;
- (b) “licence” means a licence under this Act;
- (c) “Minister” means the Minister of Natural Resources;
- (d) “reptile” means a snake, lizard or other reptile that the Lieutenant Governor in Council declares to be a reptile for the purposes of this Act;
- (e) “reptile sanctuary” means premises where reptiles are kept in captivity;
- (f) “wild animal” means a lion, tiger, jaguar, leopard or any other animal that the Lieutenant Governor in Council declares to be a wild animal for the purposes of this Act;
- (g) “wild animal sanctuary” means premises where wild animals are kept in captivity.

2. The administration of this Act is under the control and direction of the Minister.

Administra-
tion of Act

3. No person shall commence or continue to be the operator of a wild animal or reptile sanctuary in Ontario except under the authority of a licence from the Minister in respect of the sanctuary.

Licence

4. The Minister shall issue a licence to a person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee.

Issue of
licence

Responsi-
bility of
operator

5.—(1) An operator of a wild animal or reptile sanctuary shall maintain in a clean and sanitary condition the premises in which wild animals and reptiles are kept.

Idem

(2) An operator of a wild animal or reptile sanctuary shall ensure that all necessary measures are taken to prevent cruelty to or neglect of the wild animals and reptiles in the sanctuary.

Idem

(3) An operator of a wild animal or reptile sanctuary shall ensure that the pens and enclosures in which wild animals and reptiles are kept are constructed and maintained in a manner that will prevent such animals or reptiles from escaping and other animals or reptiles from entering.

Permits

6. No person shall,

- (a) take or ship, or cause to be taken or shipped, from a wild animal or reptile sanctuary to a point outside Ontario;
- (b) take or ship, or cause to be taken or shipped, from a wild animal or reptile sanctuary to a point within Ontario; or
- (c) send, or cause to be sent, from a wild animal or reptile sanctuary to a taxidermist for treating in any way,

any wild animal or reptile except under the authority of a permit prescribed in the regulations.

Containers
to be
marked

7. A container used in the shipment or transportation of wild animals and reptiles from a wild animal or reptile sanctuary shall be plainly marked on the outside in such a manner as to give the quantity and description of the contents and the names and addresses of the consignor and of the consignee.

Inspectors

8.—(1) The Minister may appoint a chief inspector and such other inspectors as he considers necessary to carry out and enforce this Act and the regulations.

Certificate of
appointment

(2) The production by an inspector of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of his appointment without further proof of the signature or authority of the Minister.

Powers of
inspector

(3) Subject to subsection 4, an inspector may, for the purpose of carrying out his duties under this Act and the regulations, enter any premises or building used in connection with a wild animal or reptile sanctuary or which he has reason to believe are used in connection with the operation of a wild animal or reptile sanctuary.

(4) Except under the authority of a warrant under section 142 of *The Provincial Offences Act, 1979*, an inspector shall not enter any part of a dwelling without the consent of the owner or occupant.

Entry of dwellings
1979, c. 4

(5) Every person shall, when required by the Minister or an inspector, produce any books, records or other documents relating to the operation of a wild animal or reptile sanctuary.

Production of records, etc.

9. No person shall hinder or obstruct an inspector in the course of his duties or furnish him with false information or refuse to furnish him with information.

Obstruction of inspector

10.—(1) Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Offence

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

Corporation

(3) Where a corporation has been convicted of an offence under subsection 1,

Directors and officers

(a) each director of the corporation; and

(b) each officer, servant or agent of the corporation who was in whole or in part responsible for the offence,

is a party to the offence unless he satisfies the court that he did not authorize, permit or acquiesce in the offence.

11. The Lieutenant Governor in Council may make regulations,

Regulations

(a) providing for the issue of licences and prescribing the duration, terms and conditions thereof and the fees to be paid therefor;

(b) declaring animals and reptiles, other than those mentioned in clause *d* of section 1, to be wild animals and reptiles for the purposes of this Act;

(c) prescribing forms and providing for their use;

(d) prescribing the records to be made and kept by the operator of a wild animal or reptile sanctuary;

(e) prescribing, and providing for the issue of, permits for the purposes of section 6;

(f) prescribing the duties of inspectors.

Commence-
ment

12. This Act comes into force on the day it receives Royal Assent.

Short title

13. The short title of this Act is *The Wild Animal and Reptile Sanctuaries Act, 1980*.

An Act to license and regulate
Wild Animal and Reptile
Sanctuaries

1st Reading

May 22nd, 1980

2nd Reading

3rd Reading

MR. VAN HORNE

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Legislative Assembly

An Act to amend The Family Benefits Act

MR. MARTEL



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the amendment is to remove any reference to the sex of the parent, thereby enabling either the mother or father of the child to be eligible for benefits.

BILL 80

1980

An Act to amend The Family Benefits Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clause *d* of subsection 1 of section 7 of *The Family Benefits Act*, being chapter 157 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

(*d*) who is a single parent with a dependent child and,

- (i) who is a widow or widower, or
- (ii) whose spouse has deserted the family for three months or more, or
- (iii) whose spouse is a patient in a sanatorium, hospital or similar institution, or
- (iv) whose spouse is imprisoned in a penal institution and at the date of the application has a term of imprisonment remaining to be served of six months or more, or
- (v) who is divorced from the parent of the dependent child and has not remarried, or
- (vi) a mother, whose dependent child was born out of wedlock, where the mother is sixteen years or more of age and her dependent child is three months or more of age; or

.

- (2) Clause *e* of subsection 1 of the said section 7, as re-enacted by the Statutes of Ontario, 1971, chapter 92, section 4, is repealed.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is *The Family Benefits Amendment Act, 1980*.

An Act to amend
The Family Benefits Act

1st Reading

May 22nd, 1980

2nd Reading

3rd Reading

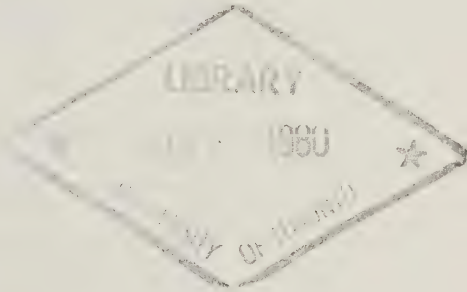
MR. MARTEL

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend certain Acts respecting Regional Municipalities

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs



EXPLANATORY NOTES

GENERAL

The Bill amends nine of the Acts that establish various regional municipalities and is divided into the following Parts:

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The following two numbered paragraphs describe amendments that are common to all nine of the regional municipalities.

1. Sections 1, 6, 11, 13, 17, 20, 24, 27, 29.

The effect of the re-enactment is to add section 390*b* as a section of *The Municipal Act* that applies to the regional municipalities; that section reads as follows:

*Insurance,
hospitaliza-
tion,
etc.*

390*b*. *The council of every municipality may pass by-laws for providing for any or all of the members of council any benefits that may be provided for the employees of a municipality under paragraphs 66 and 67 of section 352 and for any other benefits of a like nature that the council considers appropriate.*

2. Sections 2, 7, 12, 14, 18, 21, 25, 28, 30.

Set out below as an example of the subsections proposed to be repealed is s. 64 (8) of *The Niagara Act* as it now reads:

(8) *The Regional Council shall on or before the 1st day of May, 1975, pass a by-law consolidating all by-laws relating to the regional road system and shall at intervals of not more than five years thereafter pass similar consolidating by-laws.*

The re-enactments delete the time limits for the passing of consolidating roads by-laws now found in the various subsections.

The following amendments relate to the regional municipalities of Niagara and York.

Sections 3, 8.

The subsections proposed to be repealed read, in each case, as follows:

- (2) *Section 16 of The Homes for the Aged and Rest Homes Act applies in respect of applicants for admission to a home except that the authorization and statement in the prescribed forms referred to in clauses e and h of subsection 1 of such section 16 shall be signed by such person or persons as may be designated by resolution of the Regional Council.*

Changes to *The Homes for the Aged and Rest Homes Act* have made the subsection redundant.

The following sections of the Bill relate only to the regional municipality mentioned.

Sections 4 and 5.

These sections apply to The Regional Municipality of Niagara. The effect is to require the Ministry of Revenue to not only revise and equalize, but to “weight” the assessment rolls of the area municipalities and of that part of the rolls relating to merged areas, for apportionment purposes. The result of weighting is to discount residential and farm assessment and thus moderate the burden of taxation on areas that have lower industrial and commercial assessment.

Section 9.

The re-enacted section 166 confers on The Regional Municipality of York responsibility for providing facilities for the disposal of waste within the Regional Area and prohibits any municipality or local board thereof or any person from providing such facilities within the Regional Area without the consent of the Regional Council. Other provisions govern the acquisition by the Regional Corporation of existing area municipality waste disposal facilities and other matters relating to the assumption of this responsibility by the Regional Corporation.

Section 10.

The subsection added confirms the manner in which certain lands in The Regional Municipality of Waterloo were surveyed for the purpose of determining a north-south half lot line.

Sections 15 and 16.

These sections relate to The Regional Municipality of Sudbury. The re-enactment of subsection 2 of section 81 adds the requirement that the regional levying by-law show the apportionment among the various area municipalities both in dollar terms and as a percentage. The new section 81*a* affords the Regional Council an optional method of arriving at the apportionment among the area municipalities in its levying by-law where it is of the opinion that the apportionment amongst the area municipalities based on the whole rateable property in each is not equitable. Where such a by-law is passed any area municipality that is not satisfied may appeal to the Municipal Board and the Board will determine the matter and provision is made for any adjustments required by reason of the Board's decision.

Section 19.

Certain lands in the City of Hamilton and in the former Township of West Flamborough are annexed to the City of Burlington in The Regional Municipality of Halton.

Section 22.

The added subsection empowers The Regional Municipality of Halton to acquire lands and buildings for the purposes of the Halton Children's Aid Society and to lease such lands and buildings to the Society.

Section 23.

Certain lands in the former Township of West Flamborough are annexed to the City of Hamilton in The Regional Municipality of Hamilton-Wentworth.

Section 26.

This section applies to The Regional Municipality of Hamilton-Wentworth.

Subsection 5 of section 73 as it now reads is set out below showing underlined the words being changed by the proposed re-enactment:

- (5) *Notwithstanding the provisions of clauses a and b of subsection 3, those members of the police force of a local municipality whose retirement age under By-law No. 7970 of the City of Hamilton was sixty-five years of age immediately before they became members of the Hamilton-Wentworth Regional Police Force shall retire on attaining thirty-five years of service or sixty-five years of age whichever comes first and for the purpose of bargaining for benefits in the retirement plan established by the said By-law No. 7970 with the bargaining committee established under subsection 6, and its successor, the Hamilton-Wentworth Police Board shall stand in the place and stead of The Corporation of the City of Hamilton and the provisions of The Police Act apply, mutatis mutandis, thereto.*

The effect is to provide an option to those members of the Hamilton-Wentworth Regional Police Force who fall within the category described to retire either on attaining thirty-five years of service or on reaching the age of sixty.

BILL 81

1980

An Act to amend certain Acts respecting Regional Municipalities

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

THE REGIONAL MUNICIPALITY OF NIAGARA

1. Subsection 1 of section 18 of *The Regional Municipality of Niagara Act*, being chapter 406 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 19, is repealed and the following substituted therefor:

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a, 390b and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 18 (1),
re-enacted
2. Subsection 8 of section 64 of the said Act is repealed and the following substituted therefor:

(8) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system.

s. 64 (8),
re-enacted
3. Subsection 2 of section 99 of the said Act is repealed.

s. 99 (2),
repealed
4. Subsections 4, 6, 7, 8, 9 and 12 of section 119 of the said Act are repealed and the following substituted therefor:

(4) The Ministry shall revise, equalize and weight the last revised assessment rolls of the area municipalities and, for the purpose of subsection 3, the last revised assessment rolls for the area municipalities as so revised, equalized and weighted by the Ministry shall be deemed to be the last revised assessment rolls of the area municipalities.

s. 119 (4, 6, 7,
8, 9, 12),
re-enacted

Equalized
assessment

Copy to
Regional
Corporation
and area
municipality

(6) Upon completion by the Ministry of the revision, equalization and weighting of assessment, the Ministry shall notify the Regional Corporation and each of the area municipalities of the revised, equalized and weighted assessment of each area municipality.

Appeal

(7) If any area municipality is not satisfied with the assessment as revised, equalized and weighted by the Ministry, the area municipality may appeal from the decision of the Ministry by notice in writing to the Municipal Board at any time within thirty days after the notice of the revised, equalized and weighted assessment was sent to the area municipality by the Ministry.

Idem

(8) Every notice of revision, equalization and weighting made under this section shall set out the time within which an appeal may be made to the Municipal Board with respect to such revision, equalization and weighting.

Amendment
of by-law
where
necessary
following
appeal

(9) Where the last revised assessment of the area municipality has been revised, equalized and weighted by the Ministry and has been appealed, the Regional Council shall forthwith after the decision of the Municipal Board on such appeal, amend, if required, the by-law passed under subsection 2 so as to make the apportionments among the area municipalities according to the assessments as revised by the Municipal Board upon such appeal, and,

- (a) where the moneys levied against an area municipality are thereby increased, the treasurer of the area municipality shall pay the amount of the increase to the financial officer of the Regional Corporation; and
- (b) where the moneys levied against an area municipality are thereby decreased, the treasurer of the area municipality shall be liable to pay the financial officer of the Regional Corporation only the reduced levy or, if the original levy has been paid by the area municipality, the financial officer of the Regional Corporation shall pay the amount of the decrease to the treasurer of the area municipality.

Valuations of
properties in
respect of
which grants
in lieu of
taxes
received

(12) The clerk of an area municipality shall transmit to the Ministry, within fourteen days of a payment in lieu of taxes, a statement of the valuations of real property in the area municipality upon which such payment was made together with a statement showing the computations of such payment, and the Ministry shall revise, equalize and weight the valuations, and shall thereupon notify the Regional Corporation of the revised, equalized and weighted valuations.

5. Subsections 1 and 2 of section 120 of the said Act are repealed and the following substituted therefor: s. 120 (1, 2),
re-enacted

(1) The Ministry shall revise, equalize and weight, by the application of the latest equalization factors of the Ministry, each part of the last revised assessment rolls of the area municipalities that relates to a merged area and each such part of the last revised assessment roll of each of the area municipalities as revised, equalized and weighted is final and binding. Equalization
of assessment
of merged
area

(2) Upon completion by the Ministry of the revision, equalization and weighting of assessment in an area municipality under subsection 1, the Ministry shall notify the area municipality of the revised, equalized and weighted assessment. Notice

PART II

THE REGIONAL MUNICIPALITY OF YORK

6. Subsection 1 of section 18 of *The Regional Municipality of York Act*, being chapter 408 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 33, is repealed and the following substituted therefor: s. 18 (1),
re-enacted

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a, 390b and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation. Application of
R.S.O. 1970,
c. 284

7. Subsection 7 of section 64 of the said Act is repealed and the following substituted therefor: s. 64 (7),
re-enacted

(7) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system. Consolidating
by-law

8. Subsection 2 of section 97 of the said Act is repealed. s. 97 (2),
repealed

9. Section 166 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 117, section 19, is repealed and the following substituted therefor: s. 166,
re-enacted

166.—(1) In this section, “waste” includes ashes, garbage, refuse, domestic waste or municipal refuse, and such other wastes as may be designated by by-law of the Regional Council. Interpre-
tation

(2) On and after the day this section comes into force, the Regional Corporation shall provide facilities for the purpose of receiving, dumping and disposing of waste, and no such facilities shall be provided in the Regional Area by any person or any municipality, including a metropolitan or regional municipality, or by any local board thereof, without the consent of the Regional Waste disposal

Council, and such consent may be on such terms and conditions as the Regional Council may prescribe including the payment of such compensation as may be agreed upon.

Appeal
to
O.M.B.

(3) Where the Regional Council refuses its consent under subsection 2, the applicant therefor may appeal the refusal to the Municipal Board who shall hear and determine the matter, and the Board may impose such terms and conditions as the Board considers appropriate and the decision of the Board is final.

Powers
of
Regional
Corporation

(4) For the purposes of subsection 2, the Regional Corporation may,

- (a) acquire and use land;
- (b) erect, maintain and operate facilities for the purpose of receiving, dumping, treating and disposing of waste;
- (c) contract with Her Majesty in right of Canada, Her Majesty in right of a province, any agency of either of them, an area, regional or metropolitan municipality, or a local board thereof, or any other person for such purposes;
- (d) prohibit or regulate the dumping, treating and disposing of waste, or any class or classes thereof, upon such land; and
- (e) provide standards and regulations for vehicles, or any class or classes thereof, used for the haulage of waste to any waste facility located in the Regional Area.

Vesting of
property in
Regional
Corporation

(5) The Regional Council may pass one or more by-laws to assume as regional waste disposal works any or all such solid waste disposal sites, works, facilities and equipment vested in any area municipality, and upon the passing of any such by-law, the sites, works, facilities and equipment specified therein shall vest in the Regional Corporation.

Payment of
outstanding
debt

(6) The Regional Corporation shall pay to the corporation of any area municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding debt of such area municipality in respect of the real or personal property assumed by the Regional Corporation under subsection 5.

Interest on
late
payment

(7) If the Regional Corporation fails to make any payment required by subsection 6 on or before the due date, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

(8) No consent shall be given under subsection 2, no land shall be acquired and no facility shall be operated under subsection 4 and no by-law shall be passed under subsection 5 without, Approval of acquisition of land, etc.

(a) the approval of the area municipality in which the land is situate, which approval may be granted upon such terms and conditions including the payment of such compensation as may be agreed upon; or

(b) failing such approval or agreement, the approval of the Municipal Board.

(9) The Municipal Board, before giving its approval under clause *b* of subsection 8, shall hold a public hearing and shall give or cause to be given at least ten days notice of the hearing to the clerk of the municipality concerned and to such other persons in such manner as the Board may direct, and the Board, as a condition of giving any such approval, may by its order impose such restrictions, limitations and conditions respecting the acquisition or use of such land as to the Board may appear necessary or expedient. Approval of O. M. B.

(10) For the purposes of this section, the Regional Council shall, by by-law, prescribe rates or charges for the use of its disposal facilities. How cost to be borne

(11) When, in the opinion of the Regional Council, land has been used for solid waste disposal and is no longer required by the Regional Corporation for such purpose, the Regional Corporation shall not dispose of such land without first offering such land to the area municipality within which it is located for nominal consideration upon such terms and conditions as the Regional Council may prescribe. Disposal of sites

(12) A by-law passed under paragraph 116 of subsection 1 of section 354 of *The Municipal Act* does not apply to the Regional Corporation. Non-application of by-laws under R.S.O. 1970, c. 284, s. 354 (1), par. 116

(13) The Regional Council may by by-law prescribe one or more routes on specified regional roads to be used by vehicles, or any class or classes thereof, in hauling waste to any waste facility located in the Regional Area, and any such by-law may provide different restrictions by reference to the days and times set forth in the by-law. Routes

(14) Subject to the approval of the Regional Council, the council of an area municipality may by by-law prescribe one or more routes on specified area municipality roads to be used by vehicles, or any class or classes thereof, in hauling waste to any waste facility located in such area municipality, and any such by-law may provide different restrictions by reference to the days and times set forth in the by-law. Idem

PART III

THE REGIONAL MUNICIPALITY OF WATERLOO

s. 2,
amended

- 10.** Section 2 of *The Regional Municipality of Waterloo Act, 1972*, being chapter 105, as amended by the Statutes of Ontario, 1977, chapter 34, section 16 and 1979, chapter 81, section 44, is further amended by adding thereto the following subsection:

Determination
of north and
south halves,
Lot G, Twp.
of Beverly
R.S.O. 1970,
c. 453

(1e) Notwithstanding *The Surveys Act*, the north and south halves of Lot G of the Township of Beverly as described in and for the purposes of clause *c* of subsection 1 shall be determined by arithmetic mean and not by equal area parts.

s. 19 (1),
re-enacted

- 11.** Subsection 1 of section 19 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 47, is repealed and the following substituted therefor:

Application of
R.S.O. 1970,
c. 284

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389*a* to 389*e*, 390, 390*a*, 390*b* and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 68 (9),
re-enacted

- 12.** Subsection 9 of section 68 of the said Act is repealed and the following substituted therefor:

Consolidating
by-law

(9) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system.

PART IV

THE REGIONAL MUNICIPALITY OF SUDBURY

s. 19 (1),
re-enacted

- 13.** Subsection 1 of section 19 of *The Regional Municipality of Sudbury Act, 1972*, being chapter 104, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 63, is repealed and the following substituted therefor:

Application of
R.S.O. 1970,
c. 284

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389*a* to 389*e*, 390, 390*a*, 390*b* and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 53 (11),
re-enacted

- 14.** Subsection 11 of section 53 of the said Act is repealed and the following substituted therefor:

Consolidating
by-law

(11) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system.

- 15.** Subsection 2 of section 81 of the said Act is repealed and the following substituted therefor: s. 81 (2), re-enacted

(2) The Regional Council shall ascertain and by by-law direct Apportionment what portion, expressed in dollars and as a percentage, of the sum mentioned in subsection 1 shall be levied against and in each area municipality.

- 16.** The said Act is amended by adding thereto the following section: s. 81a, enacted

81a.—(1) Notwithstanding subsection 3 of section 81 and Ontario Regulation 167/80, where the Regional Council is of the opinion that a percentage share as determined by the application of subsection 3 of section 81 is not just and equitable, it may in the by-law passed under subsection 2 of section 81 make an apportionment for Regional purposes that is just and equitable, and such by-law shall have appended thereto as a schedule a statement of the apportionment, expressed in dollars and as a percentage, that would have been made among the area municipalities but for the application of this section. Alternative apportionment

(2) Where the Regional Council makes an apportionment under subsection 1, the clerk of the Regional Corporation shall within ten days forward a copy of the by-law to each area municipality. Copy of by-law to area municipalities

(3) An area municipality that is not satisfied with the apportionment provided for in subsection 1 may appeal to the Municipal Board within thirty days of the passing of the by-law by giving notice in writing, by registered mail, to the Municipal Board, the clerk of the Regional Municipality and every other area municipality. Appeal to O.M.B.

(4) Upon receipt of the notice of appeal under subsection 3, the Municipal Board shall arrange a time and place for hearing the appeal and shall send a notice thereof by registered mail to all parties concerned in the appeal at least fourteen days before the hearing and shall hear and dispose of the appeal. Hearing by O.M.B.

(5) Where, as a result of a decision of the Municipal Board under subsection 4, there is an adjustment required to be made, the Regional Council shall forthwith amend the by-law passed under subsection 2 of section 81 so as to make the apportionment among the area municipalities according to the percentage shares as revised by the Municipal Board, and, Adjustments

- (a) where the share levied against an area municipality is thereby increased, the treasurer of the area municipality shall pay the amount of the increase to the treasurer of the Regional Corporation; and

- (b) where the share levied against an area municipality is thereby decreased, the treasurer of the area municipality shall be liable to pay the treasurer of the Regional Corporation only the reduced levy or, if the original levy has been paid by the area municipality, the treasurer of the Regional Corporation shall pay the amount of the decrease to the treasurer of the area municipality.

PART V

THE REGIONAL MUNICIPALITY OF PEEL

s. 19 (1),
re-enacted

- 17.** Subsection 1 of section 19 of *The Regional Municipality of Peel Act, 1973*, being chapter 60, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 78, is repealed and the following substituted therefor:

Application of
R.S.O. 1970,
c. 284

- (1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a, 390b and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 29 (9),
re-enacted

- 18.** Subsection 9 of section 29 of the said Act is repealed and the following substituted therefor:

Consolidating
by-law

- (9) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system.

PART VI

THE REGIONAL MUNICIPALITY OF HALTON

s. 2,
amended

- 19.** Section 2 of *The Regional Municipality of Halton Act, 1973*, being chapter 70, as amended by the Statutes of Ontario, 1973, chapter 162, section 1 and 1976, chapter 43, section 72, is further amended by adding thereto the following subsections:

Part of
Hamilton
annexed to
Burlington

- (1b) That portion of the City of Hamilton described as follows is annexed to the City of Burlington:

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Hamilton, and being more particularly described as follows:

COMMENCING at the intersection of the northerly limit of the City of Hamilton and the southeasterly prolongation of the centre line of the unopened road allowance between the Town of Burlington and the Township of West Flamborough;

THENCE southeasterly along the prolongation of the said centre line of unopened road allowance 102 metres more or less to the centre line of the right of way of the Canadian National Railways;

THENCE continuing along the said unopened road allowance 50 metres more or less to a point on the high water mark of Hamilton Harbour, the said point being a point on the boundary of the City of Hamilton;

THENCE northerly and northwesterly along the northerly limit of the City of Hamilton to the point of commencement.

(1c) That portion of the Township of West Flamborough described as follows is annexed to the City of Burlington:

Part of
Flamborough
annexed to
Burlington

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the Township of West Flamborough (formerly in the County of Wentworth), and being more particularly described as follows:

COMMENCING at the intersection of the southerly limit of Spring Gardens Road and the southeasterly angle of Part 2 as shown on a Plan deposited in the Land Registry Office for the Registry Division of Halton (No. 20) as Number 20R-4196 and in the Land Registry Office for the Registry Division of Wentworth (No. 62) as Number 62R-4732;

THENCE westerly and northerly along the southerly and westerly limit of Spring Gardens Road as shown on the said Plan to the westerly angle of the said Part 2;

THENCE North 72 degrees 06' 30" West 85 metres to a point;

THENCE North 17 degrees 53' 30" East 20 metres to a point;

THENCE North 72 degrees 06' 30" West to a point on the westerly high water mark of Hamilton Harbour the said point being on an easterly boundary of the City of Hamilton;

THENCE northerly along the said easterly boundary of the City of Hamilton to the intersection of the northwesterly prolongation of the northeasterly limit of Part 1 as shown on the said Plan numbered 20R-4196 and 62R-4732;

THENCE southeasterly to and along the northeasterly limit of the said Part 1 and Part 2 to the point of commencement.

s. 19 (1),
re-enacted

- 20.** Subsection 1 of section 19 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 90, is repealed and the following substituted therefor:

Application of
R.S.O. 1970,
c. 284

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a, 390b and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 29 (9),
re-enacted

- 21.** Subsection 9 of section 29 of the said Act is repealed and the following substituted therefor:

Consolidating
by-law

(9) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system.

s. 130,
amended

- 22.** Section 130 of the said Act is amended by adding thereto the following subsection:

Acquisition
of lands for
Children's
Aid Society

(1a) The Regional Corporation may acquire land and may acquire, renovate or construct buildings for the use of The Children's Aid Society of The Regional Municipality of Halton and may lease land and any buildings so acquired, renovated or constructed to The Children's Aid Society of The Regional Municipality of Halton.

PART VII

THE REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

s. 2,
amended

- 23.** Section 2 of *The Regional Municipality of Hamilton-Wentworth Act, 1973*, being chapter 74, is amended by adding thereto the following subsection:

Part of
West Flam-
borough
annexed to
Hamilton

(1a) That portion of the Township of West Flamborough more particularly described as follows is annexed to the City of Hamilton:

COMMENCING at the intersection of the northerly limit of Valley Inn Road and a point on the westerly high water mark of Hamilton Harbour the said point being on an easterly boundary of the City of Hamilton;

THENCE southerly along an easterly boundary of the said City of Hamilton to the southerly limit of the said Valley Inn Road;

THENCE easterly to a point distant 85 metres measured North 72 degrees 86' 30" West from the westerly angle of

Part 2 as designated on a Plan deposited in the Land Registry Office for the Registry Division of Halton (No. 20) as Number 20R-4196 and in the Land Registry Office for the Registry Division of Wentworth (No. 62) as Number 62R-4732;

THENCE North 17 degrees 53' 30" East 20 metres to a point;

THENCE North 72 degrees 06' 30" West to the point of commencement.

- 24.** Subsection 1 of section 19 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 101, is repealed and the following substituted therefor: s. 19 (1), re-enacted
- (1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389*a* to 389*e*, 390, 390*a*, 390*b* and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation. Application of R.S.O. 1970, c. 284
- 25.** Subsection 9 of section 29 of the said Act is repealed and the following substituted therefor: s. 29 (9), re-enacted
- (9) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system. Consolidating by-law
- 26.** Subsection 5 of section 73 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 163, section 5, is repealed and the following substituted therefor: s. 73 (5), re-enacted
- (5) Notwithstanding the provisions of clauses *a* and *b* of subsection 3, those members of the police force of a local municipality whose retirement age under By-law No. 7970 of the City of Hamilton was sixty-five years of age immediately before they became members of the Hamilton-Wentworth Regional Police Force shall retire on attaining thirty-five years of service or sixty years of age, at the option of the member, and for the purpose of bargaining for benefits in the retirement plan established by the said By-Law No. 7970 with the bargaining committee established under subsection 6, and its successor, the Hamilton-Wentworth Police Board shall stand in the place and stead of The Corporation of the City of Hamilton and the provisions of *The Police Act* apply with necessary modifications thereto. Retirement of present members of police of local municipality R.S.O. 1970, c. 351

PART VIII

THE REGIONAL MUNICIPALITY OF DURHAM

- 27.** Subsection 1 of section 19 of *The Regional Municipality of Durham Act*, 1973, being chapter 78, as re-enacted by the Statutes of s. 19 (1), re-enacted

Ontario, 1979, chapter 81, section 114, is repealed and the following substituted therefor:

Application of
R.S.O. 1970,
c. 284

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a, 390b and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 30 (9),
re-enacted

28. Subsection 9 of section 30 of the said Act is repealed and the following substituted therefor:

Consolidating
by-law

(9) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system.

PART IX

THE REGIONAL MUNICIPALITY OF HALDIMAND-NORFOLK

s. 19 (1),
re-enacted

29. Subsection 1 of section 19 of *The Regional Municipality of Haldimand-Norfolk Act, 1973*, being chapter 96, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 127, is repealed and the following substituted therefor:

Application of
R.S.O. 1970,
c. 284

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a, 390b and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 30 (9),
re-enacted

30. Subsection 9 of section 30 of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 155, section 4, is repealed and the following substituted therefor:

Consolidating
by-law

(9) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system.

Commence-
ment

31.—(1) This Act, except sections 4, 10, 15, 16, 19, 22 and 23, comes into force on the day it receives Royal Assent.

Idem

(2) Section 10 shall be deemed to have come into force on the 1st day of January, 1973.

Idem

(3) Sections 19 and 23 shall be deemed to have come into force on the 1st day of January, 1974.

Idem

(4) Section 22 shall be deemed to have come into force on the 1st day of January, 1979.

Idem

(5) Sections 4, 15 and 16 shall be deemed to have come into force on the 1st day of January, 1980.

Short title

32. The short title of this Act is *The Regional Municipalities Amendment Act, 1980*.



An Act to amend certain Acts
respecting Regional Municipalities

1st Reading

May 23rd, 1980

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

(Government Bill)

7 BILL 81

Government Bill

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend certain Acts respecting Regional Municipalities

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

(Reprinted as amended by the Committee of the Whole House)



TORONTO

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EXPLANATORY NOTES

GENERAL

The Bill amends nine of the Acts that establish various regional municipalities and is divided into the following Parts:

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The following two numbered paragraphs describe amendments that are common to all nine of the regional municipalities.

1. Sections 1, 6, 11, 13, 17, 20, 24, 27, 29.

The effect of the re-enactment is to add section 390*b* as a section of *The Municipal Act* that applies to the regional municipalities; that section reads as follows:

*Insurance,
hospitaliza-
tion,
etc.*

390*b*. *The council of every municipality may pass by-laws for providing for any or all of the members of council any benefits that may be provided for the employees of a municipality under paragraphs 66 and 67 of section 352 and for any other benefits of a like nature that the council considers appropriate.*

2. Sections 2, 7, 12, 14, 18, 21, 25, 28, 30.

Set out below as an example of the subsections proposed to be repealed is s. 64 (8) of *The Niagara Act* as it now reads:

(8) *The Regional Council shall on or before the 1st day of May, 1975, pass a by-law consolidating all by-laws relating to the regional road system and shall at intervals of not more than five years thereafter pass similar consolidating by-laws.*

The re-enactments delete the time limits for the passing of consolidating roads by-laws now found in the various subsections.

The following amendments relate to the regional municipalities of Niagara and York.

Sections 3, 8.

The subsections proposed to be repealed read, in each case, as follows:

- (2) *Section 16 of The Homes for the Aged and Rest Homes Act applies in respect of applicants for admission to a home except that the authorization and statement in the prescribed forms referred to in clauses e and h of subsection 1 of such section 16 shall be signed by such person or persons as may be designated by resolution of the Regional Council.*

Changes to *The Homes for the Aged and Rest Homes Act* have made the subsection redundant.

The following sections of the Bill relate only to the regional municipality mentioned.

Sections 4 and 5.

These sections apply to The Regional Municipality of Niagara. The effect is to require the Ministry of Revenue to not only revise and equalize, but to "weight" the assessment rolls of the area municipalities and of that part of the rolls relating to merged areas, for apportionment purposes. The result of weighting is to discount residential and farm assessment and thus moderate the burden of taxation on areas that have lower industrial and commercial assessment.

Section 9.

The re-enacted section 166 confers on The Regional Municipality of York responsibility for providing facilities for the disposal of waste within the Regional Area and prohibits any municipality or local board thereof or any person from providing such facilities within the Regional Area without the consent of the Regional Council. Other provisions govern the acquisition by the Regional Corporation of existing area municipality waste disposal facilities and other matters relating to the assumption of this responsibility by the Regional Corporation.

Section 10.

The subsection added confirms the manner in which certain lands in The Regional Municipality of Waterloo were surveyed for the purpose of determining a north-south half lot line.

Sections 15 and 16.

These sections relate to The Regional Municipality of Sudbury. The re-enactment of subsection 2 of section 81 adds the requirement that the regional levying by-law show the apportionment among the various area municipalities both in dollar terms and as a percentage. The new section 81a affords the Regional Council an optional method of arriving at the apportionment among the area municipalities in its levying by-law where it is of the opinion that the apportionment amongst the area municipalities based on the whole rateable property in each is not equitable. Where such a by-law is passed any area municipality that is not satisfied may appeal to the Municipal Board and the Board will determine the matter and provision is made for any adjustments required by reason of the Board's decision.

Section 19.

Certain lands in the City of Hamilton and in the former Township of West Flamborough are annexed to the City of Burlington in The Regional Municipality of Halton.

Section 22.

The added subsection empowers The Regional Municipality of Halton to acquire lands and buildings for the purposes of the Halton Children's Aid Society and to lease such lands and buildings to the Society.

Section 23.

Certain lands in the former Township of West Flamborough are annexed to the City of Hamilton in The Regional Municipality of Hamilton-Wentworth.

Section 26.

This section applies to The Regional Municipality of Hamilton-Wentworth.

Subsection 5 of section 73 as it now reads is set out below showing underlined the words being changed by the proposed re-enactment:

- (5) *Notwithstanding the provisions of clauses a and b of subsection 3, those members of the police force of a local municipality whose retirement age under By-law No. 7970 of the City of Hamilton was sixty-five years of age immediately before they became members of the Hamilton-Wentworth Regional Police Force shall retire on attaining thirty-five years of service or sixty-five years of age whichever comes first and for the purpose of bargaining for benefits in the retirement plan established by the said By-law No. 7970 with the bargaining committee established under subsection 6, and its successor, the Hamilton-Wentworth Police Board shall stand in the place and stead of The Corporation of the City of Hamilton and the provisions of The Police Act apply, mutatis mutandis, thereto.*

The effect is to provide an option to those members of the Hamilton-Wentworth Regional Police Force who fall within the category described to retire either on attaining thirty-five years of service or on reaching the age of sixty.

BILL 81

1980

An Act to amend certain Acts respecting Regional Municipalities

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

THE REGIONAL MUNICIPALITY OF NIAGARA

1. Subsection 1 of section 18 of *The Regional Municipality of Niagara Act*, being chapter 406 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 19, is repealed and the following substituted therefor:

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a, 390b and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.
2. Subsection 8 of section 64 of the said Act is repealed and the following substituted therefor:

(8) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system.
3. Subsection 2 of section 99 of the said Act is repealed.
4. Subsections 4, 6, 7, 8, 9 and 12 of section 119 of the said Act are repealed and the following substituted therefor:

(4) The Ministry shall revise, equalize and weight the last revised assessment rolls of the area municipalities and, for the purpose of subsection 3, the last revised assessment rolls for the area municipalities as so revised, equalized and weighted by the Ministry shall be deemed to be the last revised assessment rolls of the area municipalities.

s. 18 (1),
re-enacted

Application
of
R.S.O. 1970,
c. 284

s. 64 (8),
re-enacted

Consolidating
by-law

s. 99 (2),
repealed

s. 119 (4, 6, 7,
8, 9, 12),
re-enacted

Equalized
assessment

Copy to
Regional
Corporation
and area
municipality

(6) Upon completion by the Ministry of the revision, equalization and weighting of assessment, the Ministry shall notify the Regional Corporation and each of the area municipalities of the revised, equalized and weighted assessment of each area municipality.

Appeal

(7) If any area municipality is not satisfied with the assessment as revised, equalized and weighted by the Ministry, the area municipality may appeal from the decision of the Ministry by notice in writing to the Municipal Board at any time within thirty days after the notice of the revised, equalized and weighted assessment was sent to the area municipality by the Ministry.

Idem

(8) Every notice of revision, equalization and weighting made under this section shall set out the time within which an appeal may be made to the Municipal Board with respect to such revision, equalization and weighting.

Amendment
of by-law
where
necessary
following
appeal

(9) Where the last revised assessment of the area municipality has been revised, equalized and weighted by the Ministry and has been appealed, the Regional Council shall forthwith after the decision of the Municipal Board on such appeal, amend, if required, the by-law passed under subsection 2 so as to make the apportionments among the area municipalities according to the assessments as revised by the Municipal Board upon such appeal, and,

(a) where the moneys levied against an area municipality are thereby increased, the treasurer of the area municipality shall pay the amount of the increase to the financial officer of the Regional Corporation; and

(b) where the moneys levied against an area municipality are thereby decreased, the treasurer of the area municipality shall be liable to pay the financial officer of the Regional Corporation only the reduced levy or, if the original levy has been paid by the area municipality, the financial officer of the Regional Corporation shall pay the amount of the decrease to the treasurer of the area municipality.

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Valuations of
properties in
respect of
which grants
in lieu of
taxes
received

(12) The clerk of an area municipality shall transmit to the Ministry, within fourteen days of a payment in lieu of taxes, a statement of the valuations of real property in the area municipality upon which such payment was made together with a statement showing the computations of such payment, and the Ministry shall revise, equalize and weight the valuations, and shall thereupon notify the Regional Corporation of the revised, equalized and weighted valuations.

5. Subsections 1 and 2 of section 120 of the said Act are repealed and the following substituted therefor: s. 120 (1, 2),
re-enacted

(1) The Ministry shall revise, equalize and weight, by the application of the latest equalization factors of the Ministry, each part of the last revised assessment rolls of the area municipalities that relates to a merged area and each such part of the last revised assessment roll of each of the area municipalities as revised, equalized and weighted is final and binding. Equalization
of assessment
of merged
area

(2) Upon completion by the Ministry of the revision, equalization and weighting of assessment in an area municipality under subsection 1, the Ministry shall notify the area municipality of the revised, equalized and weighted assessment. Notice

PART II

THE REGIONAL MUNICIPALITY OF YORK

6. Subsection 1 of section 18 of *The Regional Municipality of York Act*, being chapter 408 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 33, is repealed and the following substituted therefor: s. 18 (1),
re-enacted

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a, 390b and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation. Application of
R.S.O. 1970,
c. 284

7. Subsection 7 of section 64 of the said Act is repealed and the following substituted therefor: s. 64 (7),
re-enacted

(7) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system. Consolidating
by-law

8. Subsection 2 of section 97 of the said Act is repealed. s. 97 (2),
repealed

9. Section 166 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 117, section 19, is repealed and the following substituted therefor: s. 166,
re-enacted

166.—(1) In this section, “waste” includes ashes, garbage, refuse, domestic waste or municipal refuse, and such other wastes as may be designated by by-law of the Regional Council. Interpre-
tation

(2) On and after the day this section comes into force, the Regional Corporation shall provide facilities for the purpose of receiving, dumping and disposing of waste, and no such facilities shall be provided in the Regional Area by any person or any municipality, including a metropolitan or regional municipality, or by any local board thereof, without the consent of the Regional Council, which consent may be granted on such terms and condi- Waste disposal

tions including the payment of such compensation as may be agreed upon.

Appeal
to
O.M.B.

(3) Where the Regional Council refuses its consent under subsection 2, or the applicant therefor and the Regional Council fail to agree on the terms and conditions related to such consent, the applicant may appeal to the Municipal Board who shall hear and determine the matter, and the Board may impose such terms and conditions as the Board considers appropriate and the decision of the Board is final.

Powers
of
Regional
Corporation

(4) For the purposes of subsection 2, the Regional Corporation may,

- (a) acquire and use land;
- (b) erect, maintain and operate facilities for the purpose of receiving, dumping, treating and disposing of waste;
- (c) contract with Her Majesty in right of Canada, Her Majesty in right of a province, any agency of either of them, an area, regional or metropolitan municipality, or a local board thereof, or any other person for such purposes;
- (d) prohibit or regulate the dumping, treating and disposing of waste, or any class or classes thereof, upon such land; and
- (e) provide standards and regulations for vehicles, or any class or classes thereof, used for the haulage of waste to any waste facility located in the Regional Area.

Vesting of
property in
Regional
Corporation

(5) The Regional Council may pass one or more by-laws to assume as regional waste disposal works any or all such solid waste disposal sites, works, facilities and equipment vested in any area municipality, and upon the passing of any such by-law, the sites, works, facilities and equipment specified therein shall vest in the Regional Corporation.

Payment of
outstanding
debt

(6) The Regional Corporation shall pay to the corporation of any area municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding debt of such area municipality in respect of the real or personal property assumed by the Regional Corporation under subsection 5.

Interest on
late
payment

(7) If the Regional Corporation fails to make any payment required by subsection 6 on or before the due date, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

(8) No consent shall be given under subsection 2, no land shall be acquired and no facility shall be operated under subsection 4 and no by-law shall be passed under subsection 5 without, Approval of acquisition of land, etc.

(a) the approval of the area municipality in which the land is situate, which approval may be granted upon such terms and conditions including the payment of such compensation as may be agreed upon; or

(b) failing such approval or agreement, the approval of the Municipal Board.

(9) The Municipal Board, before giving its approval under clause *b* of subsection 8, shall hold a public hearing and shall give or cause to be given at least ten days notice of the hearing to the clerk of the municipality concerned and to such other persons in such manner as the Board may direct, and the Board, as a condition of giving any such approval, may by its order impose such restrictions, limitations and conditions respecting the acquisition or use of such land as to the Board may appear necessary or expedient. Approval of O.M.B.

(10) For the purposes of this section, the Regional Council shall, by by-law, prescribe rates or charges for the use of its disposal facilities. How cost to be borne

(11) When, in the opinion of the Regional Council, land has been used for solid waste disposal and is no longer required by the Regional Corporation for such purpose, the Regional Corporation shall not dispose of such land without first offering such land to the area municipality within which it is located for nominal consideration upon such terms and conditions as the Regional Council may prescribe. Disposal of sites

(12) A by-law passed under paragraph 116 of subsection 1 of section 354 of *The Municipal Act* does not apply to the Regional Corporation. Non-application of by-laws under R.S.O. 1970, c. 284, s. 354 (1), par. 116

(13) The Regional Council may by by-law prescribe one or more routes on specified regional roads to be used by vehicles, or any class or classes thereof, in hauling waste to any waste facility located in the Regional Area, and any such by-law may provide different restrictions by reference to the days and times set forth in the by-law. Routes

(14) Subject to the approval of the Regional Council, the council of an area municipality may by by-law prescribe one or more routes on specified area municipality roads to be used by vehicles, or any class or classes thereof, in hauling waste to any waste facility located in such area municipality, and any such by-law may provide different restrictions by reference to the days and times set forth in the by-law. Idem

PART III

THE REGIONAL MUNICIPALITY OF WATERLOO

s. 2,
amended

- 10.** Section 2 of *The Regional Municipality of Waterloo Act, 1972*, being chapter 105, as amended by the Statutes of Ontario, 1977, chapter 34, section 16 and 1979, chapter 81, section 44, is further amended by adding thereto the following subsection:

Determination
of north and
south halves,
Lot G, Twp.
of Beverly
R.S.O. 1970,
c. 453

(1e) Notwithstanding *The Surveys Act*, the north and south halves of Lot G of the Township of Beverly as described in and for the purposes of clause *c* of subsection 1 shall be determined by arithmetic mean and not by equal area parts.

s. 19 (1),
re-enacted

- 11.** Subsection 1 of section 19 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 47, is repealed and the following substituted therefor:

Application of
R.S.O. 1970,
c. 284

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389*a* to 389*e*, 390, 390*a*, 390*b* and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 68 (9),
re-enacted

- 12.** Subsection 9 of section 68 of the said Act is repealed and the following substituted therefor:

Consolidating
by-law

(9) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system.

PART IV

THE REGIONAL MUNICIPALITY OF SUDBURY

s. 19 (1),
re-enacted

- 13.** Subsection 1 of section 19 of *The Regional Municipality of Sudbury Act, 1972*, being chapter 104, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 63, is repealed and the following substituted therefor:

Application of
R.S.O. 1970,
c. 284

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389*a* to 389*e*, 390, 390*a*, 390*b* and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 53 (11),
re-enacted

- 14.** Subsection 11 of section 53 of the said Act is repealed and the following substituted therefor:

Consolidating
by-law

(11) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system.

15. Subsection 2 of section 81 of the said Act is repealed and the following substituted therefor: s. 81 (2), re-enacted

(2) The Regional Council shall ascertain and by by-law direct what portion, expressed in dollars and as a percentage, of the sum mentioned in subsection 1 shall be levied against and in each area municipality. Apportionment

16. The said Act is amended by adding thereto the following section: s. 81a, enacted

81a.—(1) Notwithstanding subsection 3 of section 81 and Ontario Regulation 167/80, where the Regional Council is of the opinion that a percentage share as determined by the application of subsection 3 of section 81 is not just and equitable, it may in the by-law passed under subsection 2 of section 81 make an apportionment for Regional purposes that is just and equitable, and such by-law shall have appended thereto as a schedule a statement of the apportionment, expressed in dollars and as a percentage, that would have been made among the area municipalities but for the application of this section. Alternative apportionment

(2) Where the Regional Council makes an apportionment under subsection 1, the clerk of the Regional Corporation shall within ten days forward a copy of the by-law to each area municipality. Copy of by-law to area municipalities

(3) An area municipality that is not satisfied with the apportionment provided for in subsection 1 may appeal to the Municipal Board within thirty days of the passing of the by-law by giving notice in writing, by registered mail, to the Municipal Board, the clerk of the Regional Municipality and every other area municipality. Appeal to O.M.B.

(4) Upon receipt of the notice of appeal under subsection 3, the Municipal Board shall arrange a time and place for hearing the appeal and shall send a notice thereof by registered mail to all parties concerned in the appeal at least fourteen days before the hearing and shall hear and dispose of the appeal. Hearing by O.M.B.

(5) Where, as a result of a decision of the Municipal Board under subsection 4, there is an adjustment required to be made, the Regional Council shall forthwith amend the by-law passed under subsection 2 of section 81 so as to make the apportionment among the area municipalities according to the percentage shares as revised by the Municipal Board, and, Adjustments

- (a) where the share levied against an area municipality is thereby increased, the treasurer of the area municipality shall pay the amount of the increase to the treasurer of the Regional Corporation; and

- (b) where the share levied against an area municipality is thereby decreased, the treasurer of the area municipality shall be liable to pay the treasurer of the Regional Corporation only the reduced levy or, if the original levy has been paid by the area municipality, the treasurer of the Regional Corporation shall pay the amount of the decrease to the treasurer of the area municipality.

PART V

THE REGIONAL MUNICIPALITY OF PEEL

s. 19 (1),
re-enacted

- 17.** Subsection 1 of section 19 of *The Regional Municipality of Peel Act, 1973*, being chapter 60, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 78, is repealed and the following substituted therefor:

Application of
R.S.O. 1970,
c. 284

- (1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a, 390b and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 29 (9),
re-enacted

- 18.** Subsection 9 of section 29 of the said Act is repealed and the following substituted therefor:

Consolidating
by-law

- (9) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system.

PART VI

THE REGIONAL MUNICIPALITY OF HALTON

s. 2,
amended

- 19.** Section 2 of *The Regional Municipality of Halton Act, 1973*, being chapter 70, as amended by the Statutes of Ontario, 1973, chapter 162, section 1 and 1976, chapter 43, section 72, is further amended by adding thereto the following subsections:

Part of
Hamilton
annexed to
Burlington

- (1b) That portion of the City of Hamilton described as follows is annexed to the City of Burlington:

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Hamilton, and being more particularly described as follows:

COMMENCING at the intersection of the northerly limit of the City of Hamilton and the southeasterly prolongation of the centre line of the unopened road allowance between the Town of Burlington and the Township of West Flamborough;

THENCE southeasterly along the prolongation of the said centre line of unopened road allowance 102 metres more or less to the centre line of the right of way of the Canadian National Railways;

THENCE continuing along the said unopened road allowance 50 metres more or less to a point on the high water mark of Hamilton Harbour, the said point being a point on the boundary of the City of Hamilton;

THENCE northerly and northwesterly along the northerly limit of the City of Hamilton to the point of commencement.

(1c) That portion of the Township of West Flamborough described as follows is annexed to the City of Burlington: Part of
Flamborough
annexed to
Burlington

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the Township of West Flamborough (formerly in the County of Wentworth), and being more particularly described as follows:

COMMENCING at the intersection of the southerly limit of Spring Gardens Road and the southeasterly angle of Part 2 as shown on a Plan deposited in the Land Registry Office for the Registry Division of Halton (No. 20) as Number 20R-4196 and in the Land Registry Office for the Registry Division of Wentworth (No. 62) as Number 62R-4732;

THENCE westerly and northerly along the southerly and westerly limit of Spring Gardens Road as shown on the said Plan to the westerly angle of the said Part 2;

THENCE North 72 degrees 06' 30" West 85 metres to a point;

THENCE North 17 degrees 53' 30" East 20 metres to a point;

THENCE North 72 degrees 06' 30" West to a point on the westerly high water mark of Hamilton Harbour the said point being on an easterly boundary of the City of Hamilton;

THENCE northerly along the said easterly boundary of the City of Hamilton to the intersection of the northwesterly prolongation of the northeasterly limit of Part 1 as shown on the said Plan numbered 20R-4196 and 62R-4732;

THENCE southeasterly to and along the northeasterly limit of the said Part 1 and Part 2 to the point of commencement.

s. 19 (1),
re-enacted

- 20.** Subsection 1 of section 19 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 90, is repealed and the following substituted therefor:

Application of
R.S.O. 1970,
c. 284

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a, 390b and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 29 (9),
re-enacted

- 21.** Subsection 9 of section 29 of the said Act is repealed and the following substituted therefor:

Consolidating
by-law

(9) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system.

s. 130,
amended

- 22.** Section 130 of the said Act is amended by adding thereto the following subsection:

Acquisition
of lands for
Children's
Aid Society

(1a) The Regional Corporation may acquire land and may acquire, renovate or construct buildings for the use of The Children's Aid Society of The Regional Municipality of Halton and may lease land and any buildings so acquired, renovated or constructed to The Children's Aid Society of The Regional Municipality of Halton.

PART VII

THE REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

s. 2,
amended

- 23.** Section 2 of *The Regional Municipality of Hamilton-Wentworth Act, 1973*, being chapter 74, is amended by adding thereto the following subsection:

Part of
West Flam-
borough
annexed to
Hamilton

(1a) That portion of the Township of West Flamborough more particularly described as follows is annexed to the City of Hamilton:

COMMENCING at the intersection of the northerly limit of Valley Inn Road and a point on the westerly high water mark of Hamilton Harbour the said point being on an easterly boundary of the City of Hamilton;

THENCE southerly along an easterly boundary of the said City of Hamilton to the southerly limit of the said Valley Inn Road;

THENCE easterly to a point distant 85 metres measured North 72 degrees 06' 30" West from the westerly angle of

Part 2 as designated on a Plan deposited in the Land Registry Office for the Registry Division of Halton (No. 20) as Number 20R-4196 and in the Land Registry Office for the Registry Division of Wentworth (No. 62) as Number 62R-4732;

THENCE North 17 degrees 53' 30" East 20 metres to a point;

THENCE North 72 degrees 06' 30" West to the point of commencement.

- 24.** Subsection 1 of section 19 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 101, is repealed and the following substituted therefor: s. 19 (1),
re-enacted

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a, 390b and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation. Application of
R.S.O. 1970,
c. 284

- 25.** Subsection 9 of section 29 of the said Act is repealed and the following substituted therefor: s. 29 (9),
re-enacted

(9) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system. Consolidating
by-law

- 26.** Subsection 5 of section 73 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 163, section 5, is repealed and the following substituted therefor: s. 73 (5),
re-enacted

(5) Notwithstanding the provisions of clauses *a* and *b* of subsection 3, those members of the police force of a local municipality whose retirement age under By-law No. 7970 of the City of Hamilton was sixty-five years of age immediately before they became members of the Hamilton-Wentworth Regional Police Force shall retire on attaining thirty-five years of service or sixty years of age, at the option of the member, and for the purpose of bargaining for benefits in the retirement plan established by the said By-Law No. 7970 with the bargaining committee established under subsection 6, and its successor, the Hamilton-Wentworth Police Board shall stand in the place and stead of The Corporation of the City of Hamilton and the provisions of *The Police Act* apply with necessary modifications thereto. Retirement
of present
members of
police of
local
municipality

R.S.O. 1970,
c. 351

PART VIII

THE REGIONAL MUNICIPALITY OF DURHAM

- 27.** Subsection 1 of section 19 of *The Regional Municipality of Durham Act*, 1973, being chapter 78, as re-enacted by the Statutes of s. 19 (1),
re-enacted

Ontario, 1979, chapter 81, section 114, is repealed and the following substituted therefor:

Application of
R.S.O. 1970,
c. 284

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a, 390b and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 30 (9),
re-enacted

28. Subsection 9 of section 30 of the said Act is repealed and the following substituted therefor:

Consolidating
by-law

(9) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system.

PART IX

THE REGIONAL MUNICIPALITY OF HALDIMAND-NORFOLK

s. 19 (1),
re-enacted

29. Subsection 1 of section 19 of *The Regional Municipality of Haldimand-Norfolk Act, 1973*, being chapter 96, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 127, is repealed and the following substituted therefor:

Application of
R.S.O. 1970,
c. 284

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a, 390b and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 30 (9),
re-enacted

30. Subsection 9 of section 30 of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 155, section 4, is repealed and the following substituted therefor:

Consolidating
by-law

(9) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system.

Commence-
ment

31.—(1) This Act, except sections 4, 10, 15, 16, 19, 22 and 23, comes into force on the day it receives Royal Assent.

Idem

(2) Section 10 shall be deemed to have come into force on the 1st day of January, 1973.

Idem

(3) Sections 19 and 23 shall be deemed to have come into force on the 1st day of January, 1974.

Idem

(4) Section 22 shall be deemed to have come into force on the 1st day of January, 1979.

Idem

(5) Sections 4, 15 and 16 shall be deemed to have come into force on the 1st day of January, 1980.

Short title

32. The short title of this Act is *The Regional Municipalities Amendment Act, 1980*.

BILL 81

An Act to amend certain Acts
respecting Regional Municipalities

1st Reading

May 23rd, 1980

2nd Reading

June 16th, 1980

3rd Reading

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

*(Reprinted as amended by
the Committee of the Whole House)*

26
BILL 81

Government
Publication

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980 *Legislation*

An Act to amend certain Acts respecting Regional Municipalities

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 81

1980

An Act to amend certain Acts respecting Regional Municipalities

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

THE REGIONAL MUNICIPALITY OF NIAGARA

1. Subsection 1 of section 18 of *The Regional Municipality of Niagara Act*, being chapter 406 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 19, is repealed and the following substituted therefor:

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a, 390b and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.
2. Subsection 8 of section 64 of the said Act is repealed and the following substituted therefor:

(8) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system.
3. Subsection 2 of section 99 of the said Act is repealed.
4. Subsections 4, 6, 7, 8, 9 and 12 of section 119 of the said Act are repealed and the following substituted therefor:

(4) The Ministry shall revise, equalize and weight the last revised assessment rolls of the area municipalities and, for the purpose of subsection 3, the last revised assessment rolls for the area municipalities as so revised, equalized and weighted by the Ministry shall be deemed to be the last revised assessment rolls of the area municipalities.

s. 18 (1),
re-enacted

Application
of
R.S.O. 1970,
c. 284

s. 64 (8),
re-enacted

Consolidating
by-law

s. 99 (2).
repealed

s. 119 (4, 6, 7,
8, 9, 12),
re-enacted

Equalized
assessment

Copy to
Regional
Corporation
and area
municipality

(6) Upon completion by the Ministry of the revision, equalization and weighting of assessment, the Ministry shall notify the Regional Corporation and each of the area municipalities of the revised, equalized and weighted assessment of each area municipality.

Appeal

(7) If any area municipality is not satisfied with the assessment as revised, equalized and weighted by the Ministry, the area municipality may appeal from the decision of the Ministry by notice in writing to the Municipal Board at any time within thirty days after the notice of the revised, equalized and weighted assessment was sent to the area municipality by the Ministry.

Idem

(8) Every notice of revision, equalization and weighting made under this section shall set out the time within which an appeal may be made to the Municipal Board with respect to such revision, equalization and weighting.

Amendment
of by-law
where
necessary
following
appeal

(9) Where the last revised assessment of the area municipality has been revised, equalized and weighted by the Ministry and has been appealed, the Regional Council shall forthwith after the decision of the Municipal Board on such appeal, amend, if required, the by-law passed under subsection 2 so as to make the apportionments among the area municipalities according to the assessments as revised by the Municipal Board upon such appeal, and,

- (a) where the moneys levied against an area municipality are thereby increased, the treasurer of the area municipality shall pay the amount of the increase to the financial officer of the Regional Corporation; and
- (b) where the moneys levied against an area municipality are thereby decreased, the treasurer of the area municipality shall be liable to pay the financial officer of the Regional Corporation only the reduced levy or, if the original levy has been paid by the area municipality, the financial officer of the Regional Corporation shall pay the amount of the decrease to the treasurer of the area municipality.

Valuations of
properties in
respect of
which grants
in lieu of
taxes
received

(12) The clerk of an area municipality shall transmit to the Ministry, within fourteen days of a payment in lieu of taxes, a statement of the valuations of real property in the area municipality upon which such payment was made together with a statement showing the computations of such payment, and the Ministry shall revise, equalize and weight the valuations, and shall thereupon notify the Regional Corporation of the revised, equalized and weighted valuations.

5. Subsections 1 and 2 of section 120 of the said Act are repealed and the following substituted therefor: s. 120 (1, 2),
re-enacted

(1) The Ministry shall revise, equalize and weight, by the application of the latest equalization factors of the Ministry, each part of the last revised assessment rolls of the area municipalities that relates to a merged area and each such part of the last revised assessment roll of each of the area municipalities as revised, equalized and weighted is final and binding. Equalization
of assessment
of merged
area

(2) Upon completion by the Ministry of the revision, equalization and weighting of assessment in an area municipality under subsection 1, the Ministry shall notify the area municipality of the revised, equalized and weighted assessment. Notice

PART II

THE REGIONAL MUNICIPALITY OF YORK

6. Subsection 1 of section 18 of *The Regional Municipality of York Act*, being chapter 408 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 33, is repealed and the following substituted therefor: s. 18 (1),
re-enacted

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a, 390b and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation. Application of
R.S.O. 1970,
c. 284

7. Subsection 7 of section 64 of the said Act is repealed and the following substituted therefor: s. 64 (7),
re-enacted

(7) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system. Consolidating
by-law

8. Subsection 2 of section 97 of the said Act is repealed. s. 97 (2),
repealed

9. Section 166 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 117, section 19, is repealed and the following substituted therefor: s. 166,
re-enacted

166.—(1) In this section, “waste” includes ashes, garbage, refuse, domestic waste or municipal refuse, and such other wastes as may be designated by by-law of the Regional Council. Interpre-
tation

(2) On and after the day this section comes into force, the Regional Corporation shall provide facilities for the purpose of receiving, dumping and disposing of waste, and no such facilities shall be provided in the Regional Area by any person or any municipality, including a metropolitan or regional municipality, or by any local board thereof, without the consent of the Regional Council, which consent may be granted on such terms and condi- Waste disposal

tions including the payment of such compensation as may be agreed upon.

Appeal
to
O.M.B.

(3) Where the Regional Council refuses its consent under subsection 2, or the applicant therefor and the Regional Council fail to agree on the terms and conditions related to such consent, the applicant may appeal to the Municipal Board who shall hear and determine the matter, and the Board may impose such terms and conditions as the Board considers appropriate and the decision of the Board is final.

Powers
of
Regional
Corporation

(4) For the purposes of subsection 2, the Regional Corporation may,

- (a) acquire and use land;
- (b) erect, maintain and operate facilities for the purpose of receiving, dumping, treating and disposing of waste;
- (c) contract with Her Majesty in right of Canada, Her Majesty in right of a province, any agency of either of them, an area, regional or metropolitan municipality, or a local board thereof, or any other person for such purposes;
- (d) prohibit or regulate the dumping, treating and disposing of waste, or any class or classes thereof, upon such land; and
- (e) provide standards and regulations for vehicles, or any class or classes thereof, used for the haulage of waste to any waste facility located in the Regional Area.

Vesting of
property in
Regional
Corporation

(5) The Regional Council may pass one or more by-laws to assume as regional waste disposal works any or all such solid waste disposal sites, works, facilities and equipment vested in any area municipality, and upon the passing of any such by-law, the sites, works, facilities and equipment specified therein shall vest in the Regional Corporation.

Payment of
outstanding
debt

(6) The Regional Corporation shall pay to the corporation of any area municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding debt of such area municipality in respect of the real or personal property assumed by the Regional Corporation under subsection 5.

Interest on
late
payment

(7) If the Regional Corporation fails to make any payment required by subsection 6 on or before the due date, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

(8) No consent shall be given under subsection 2, no land shall be acquired and no facility shall be operated under subsection 4 and no by-law shall be passed under subsection 5 without, Approval of acquisition of land, etc.

(a) the approval of the area municipality in which the land is situate, which approval may be granted upon such terms and conditions including the payment of such compensation as may be agreed upon; or

(b) failing such approval or agreement, the approval of the Municipal Board.

(9) The Municipal Board, before giving its approval under clause *b* of subsection 8, shall hold a public hearing and shall give or cause to be given at least ten days notice of the hearing to the clerk of the municipality concerned and to such other persons in such manner as the Board may direct, and the Board, as a condition of giving any such approval, may by its order impose such restrictions, limitations and conditions respecting the acquisition or use of such land as to the Board may appear necessary or expedient. Approval of O.M.B.

(10) For the purposes of this section, the Regional Council shall, by by-law, prescribe rates or charges for the use of its disposal facilities. How cost to be borne

(11) When, in the opinion of the Regional Council, land has been used for solid waste disposal and is no longer required by the Regional Corporation for such purpose, the Regional Corporation shall not dispose of such land without first offering such land to the area municipality within which it is located for nominal consideration upon such terms and conditions as the Regional Council may prescribe. Disposal of sites

(12) A by-law passed under paragraph 116 of subsection 1 of section 354 of *The Municipal Act* does not apply to the Regional Corporation. Non-application of by-laws under R.S.O. 1970, c. 284, s. 354 (1), par. 116

(13) The Regional Council may by by-law prescribe one or more routes on specified regional roads to be used by vehicles, or any class or classes thereof, in hauling waste to any waste facility located in the Regional Area, and any such by-law may provide different restrictions by reference to the days and times set forth in the by-law. Routes

(14) Subject to the approval of the Regional Council, the council of an area municipality may by by-law prescribe one or more routes on specified area municipality roads to be used by vehicles, or any class or classes thereof, in hauling waste to any waste facility located in such area municipality, and any such by-law may provide different restrictions by reference to the days and times set forth in the by-law. Idem

PART III

THE REGIONAL MUNICIPALITY OF WATERLOO

s. 2,
amended

- 10.** Section 2 of *The Regional Municipality of Waterloo Act, 1972*, being chapter 105, as amended by the Statutes of Ontario, 1977, chapter 34, section 16 and 1979, chapter 81, section 44, is further amended by adding thereto the following subsection:

Determination
of north and
south halves,
Lot G, Twp.
of Beverly
R.S.O. 1970,
c. 453

(1e) Notwithstanding *The Surveys Act*, the north and south halves of Lot G of the Township of Beverly as described in and for the purposes of clause *c* of subsection 1 shall be determined by arithmetic mean and not by equal area parts.

s. 19 (1),
re-enacted

- 11.** Subsection 1 of section 19 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 47, is repealed and the following substituted therefor:

Application of
R.S.O. 1970,
c. 284

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a, 390b and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 68 (9),
re-enacted

- 12.** Subsection 9 of section 68 of the said Act is repealed and the following substituted therefor:

Consolidating
by-law

(9) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system.

PART IV

THE REGIONAL MUNICIPALITY OF SUDBURY

s. 19 (1),
re-enacted

- 13.** Subsection 1 of section 19 of *The Regional Municipality of Sudbury Act, 1972*, being chapter 104, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 63, is repealed and the following substituted therefor:

Application of
R.S.O. 1970,
c. 284

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a, 390b and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 53 (11),
re-enacted

- 14.** Subsection 11 of section 53 of the said Act is repealed and the following substituted therefor:

Consolidating
by-law

(11) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system.

15. Subsection 2 of section 81 of the said Act is repealed and the following substituted therefor: s. 81 (2),
re-enacted

(2) The Regional Council shall ascertain and by by-law direct what portion, expressed in dollars and as a percentage, of the sum mentioned in subsection 1 shall be levied against and in each area municipality. Apportionment

16. The said Act is amended by adding thereto the following section: s. 81a,
enacted

81a.—(1) Notwithstanding subsection 3 of section 81 and Ontario Regulation 167/80, where the Regional Council is of the opinion that a percentage share as determined by the application of subsection 3 of section 81 is not just and equitable, it may in the by-law passed under subsection 2 of section 81 make an apportionment for Regional purposes that is just and equitable, and such by-law shall have appended thereto as a schedule a statement of the apportionment, expressed in dollars and as a percentage, that would have been made among the area municipalities but for the application of this section. Alternative
apportionment

(2) Where the Regional Council makes an apportionment under subsection 1, the clerk of the Regional Corporation shall within ten days forward a copy of the by-law to each area municipality. Copy of
by-law to area
municipalities

(3) An area municipality that is not satisfied with the apportionment provided for in subsection 1 may appeal to the Municipal Board within thirty days of the passing of the by-law by giving notice in writing, by registered mail, to the Municipal Board, the clerk of the Regional Municipality and every other area municipality. Appeal
to
O.M.B.

(4) Upon receipt of the notice of appeal under subsection 3, the Municipal Board shall arrange a time and place for hearing the appeal and shall send a notice thereof by registered mail to all parties concerned in the appeal at least fourteen days before the hearing and shall hear and dispose of the appeal. Hearing
by
O.M.B.

(5) Where, as a result of a decision of the Municipal Board under subsection 4, there is an adjustment required to be made, the Regional Council shall forthwith amend the by-law passed under subsection 2 of section 81 so as to make the apportionment among the area municipalities according to the percentage shares as revised by the Municipal Board, and, Adjustments

- (a) where the share levied against an area municipality is thereby increased, the treasurer of the area municipality shall pay the amount of the increase to the treasurer of the Regional Corporation; and

- (b) where the share levied against an area municipality is thereby decreased, the treasurer of the area municipality shall be liable to pay the treasurer of the Regional Corporation only the reduced levy or, if the original levy has been paid by the area municipality, the treasurer of the Regional Corporation shall pay the amount of the decrease to the treasurer of the area municipality.

PART V

THE REGIONAL MUNICIPALITY OF PEEL

s. 19 (1),
re-enacted

- 17.** Subsection 1 of section 19 of *The Regional Municipality of Peel Act, 1973*, being chapter 60, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 78, is repealed and the following substituted therefor:

Application of
R.S.O. 1970,
c. 284

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a, 390b and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 29 (9),
re-enacted

- 18.** Subsection 9 of section 29 of the said Act is repealed and the following substituted therefor:

Consolidating
by-law

(9) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system.

PART VI

THE REGIONAL MUNICIPALITY OF HALTON

s. 2,
amended

- 19.** Section 2 of *The Regional Municipality of Halton Act, 1973*, being chapter 70, as amended by the Statutes of Ontario, 1973, chapter 162, section 1 and 1976, chapter 43, section 72, is further amended by adding thereto the following subsections:

Part of
Hamilton
annexed to
Burlington

(1b) That portion of the City of Hamilton described as follows is annexed to the City of Burlington:

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Hamilton, and being more particularly described as follows:

COMMENCING at the intersection of the northerly limit of the City of Hamilton and the southeasterly prolongation of the centre line of the unopened road allowance between the Town of Burlington and the Township of West Flamborough;

THENCE southeasterly along the prolongation of the said centre line of unopened road allowance 102 metres more or less to the centre line of the right of way of the Canadian National Railways;

THENCE continuing along the said unopened road allowance 50 metres more or less to a point on the high water mark of Hamilton Harbour, the said point being a point on the boundary of the City of Hamilton;

THENCE northerly and northwesterly along the northerly limit of the City of Hamilton to the point of commencement.

(1c) That portion of the Township of West Flamborough described as follows is annexed to the City of Burlington: Part of
Flamborough
annexed to
Burlington

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the Township of West Flamborough (formerly in the County of Wentworth), and being more particularly described as follows:

COMMENCING at the intersection of the southerly limit of Spring Gardens Road and the southeasterly angle of Part 2 as shown on a Plan deposited in the Land Registry Office for the Registry Division of Halton (No. 20) as Number 20R-4196 and in the Land Registry Office for the Registry Division of Wentworth (No. 62) as Number 62R-4732;

THENCE westerly and northerly along the southerly and westerly limit of Spring Gardens Road as shown on the said Plan to the westerly angle of the said Part 2;

THENCE North 72 degrees 06' 30" West 85 metres to a point;

THENCE North 17 degrees 53' 30" East 20 metres to a point;

THENCE North 72 degrees 06' 30" West to a point on the westerly high water mark of Hamilton Harbour the said point being on an easterly boundary of the City of Hamilton;

THENCE northerly along the said easterly boundary of the City of Hamilton to the intersection of the northwesterly prolongation of the northeasterly limit of Part 1 as shown on the said Plan numbered 20R-4196 and 62R-4732;

THENCE southeasterly to and along the northeasterly limit of the said Part 1 and Part 2 to the point of commencement.

s. 19 (1),
re-enacted

- 20.** Subsection 1 of section 19 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 90, is repealed and the following substituted therefor:

Application of
R.S.O. 1970,
c. 284

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a, 390b and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 29 (9),
re-enacted

- 21.** Subsection 9 of section 29 of the said Act is repealed and the following substituted therefor:

Consolidating
by-law

(9) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system.

s. 130,
amended

- 22.** Section 130 of the said Act is amended by adding thereto the following subsection:

Acquisition
of lands for
Children's
Aid Society

(1a) The Regional Corporation may acquire land and may acquire, renovate or construct buildings for the use of The Children's Aid Society of The Regional Municipality of Halton and may lease land and any buildings so acquired, renovated or constructed to The Children's Aid Society of The Regional Municipality of Halton.

PART VII

THE REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

s. 2,
amended

- 23.** Section 2 of *The Regional Municipality of Hamilton-Wentworth Act, 1973*, being chapter 74, is amended by adding thereto the following subsection:

Part of
West Flam-
borough
annexed to
Hamilton

(1a) That portion of the Township of West Flamborough more particularly described as follows is annexed to the City of Hamilton:

COMMENCING at the intersection of the northerly limit of Valley Inn Road and a point on the westerly high water mark of Hamilton Harbour the said point being on an easterly boundary of the City of Hamilton;

THENCE southerly along an easterly boundary of the said City of Hamilton to the southerly limit of the said Valley Inn Road;

THENCE easterly to a point distant 85 metres measured North 72 degrees 06' 30" West from the westerly angle of

Part 2 as designated on a Plan deposited in the Land Registry Office for the Registry Division of Halton (No. 20) as Number 20R-4196 and in the Land Registry Office for the Registry Division of Wentworth (No. 62) as Number 62R-4732;

THENCE North 17 degrees 53' 30" East 20 metres to a point;

THENCE North 72 degrees 06' 30" West to the point of commencement.

- 24.** Subsection 1 of section 19 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 101, is repealed and the following substituted therefor:

s. 19 (1),
re-enacted

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389a to 389e, 390, 390a, 390b and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

Application of
R.S.O. 1970,
c. 284

- 25.** Subsection 9 of section 29 of the said Act is repealed and the following substituted therefor:

s. 29 (9),
re-enacted

(9) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system.

Consolidating
by-law

- 26.** Subsection 5 of section 73 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 163, section 5, is repealed and the following substituted therefor:

s. 73 (5),
re-enacted

(5) Notwithstanding the provisions of clauses *a* and *b* of subsection 3, those members of the police force of a local municipality whose retirement age under By-law No. 7970 of the City of Hamilton was sixty-five years of age immediately before they became members of the Hamilton-Wentworth Regional Police Force shall retire on attaining thirty-five years of service or sixty years of age, at the option of the member, and for the purpose of bargaining for benefits in the retirement plan established by the said By-Law No. 7970 with the bargaining committee established under subsection 6, and its successor, the Hamilton-Wentworth Police Board shall stand in the place and stead of The Corporation of the City of Hamilton and the provisions of *The Police Act* apply with necessary modifications thereto.

Retirement
of present
members of
police of
local
municipality

R.S.O. 1970,
c. 351

PART VIII

THE REGIONAL MUNICIPALITY OF DURHAM

- 27.** Subsection 1 of section 19 of *The Regional Municipality of Durham Act, 1973*, being chapter 78, as re-enacted by the Statutes of

s. 19 (1),
re-enacted

Ontario, 1979, chapter 81, section 114, is repealed and the following substituted therefor:

Application of
R.S.O. 1970,
c. 284

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389*a* to 389*e*, 390, 390*a*, 390*b* and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 30 (9),
re-enacted

28. Subsection 9 of section 30 of the said Act is repealed and the following substituted therefor:

Consolidating
by-law

(9) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system.

PART IX

THE REGIONAL MUNICIPALITY OF HALDIMAND-NORFOLK

s. 19 (1),
re-enacted

29. Subsection 1 of section 19 of *The Regional Municipality of Haldimand-Norfolk Act, 1973*, being chapter 96, as re-enacted by the Statutes of Ontario, 1979, chapter 81, section 127, is repealed and the following substituted therefor:

Application of
R.S.O. 1970,
c. 284

(1) Sections 192, 193, 195, 197, 198, 259, 281 to 286, 388, 389, 389*a* to 389*e*, 390, 390*a*, 390*b* and 391 of *The Municipal Act* apply with necessary modifications to the Regional Corporation.

s. 30 (9),
re-enacted

30. Subsection 9 of section 30 of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 155, section 4, is repealed and the following substituted therefor:

Consolidating
by-law

(9) The Regional Council shall, from time to time, pass a by-law consolidating all by-laws relating to the regional road system.

Commence-
ment

31.—(1) This Act, except sections 4, 10, 15, 16, 19, 22 and 23, comes into force on the day it receives Royal Assent.

Idem

(2) Section 10 shall be deemed to have come into force on the 1st day of January, 1973.

Idem

(3) Sections 19 and 23 shall be deemed to have come into force on the 1st day of January, 1974.

Idem

(4) Section 22 shall be deemed to have come into force on the 1st day of January, 1979.

Idem

(5) Sections 4, 15 and 16 shall be deemed to have come into force on the 1st day of January, 1980.

Short title

32. The short title of this Act is *The Regional Municipalities Amendment Act, 1980*.

An Act to amend certain Acts
respecting Regional Municipalities

1st Reading

May 23rd, 1980

2nd Reading

June 16th, 1980

3rd Reading

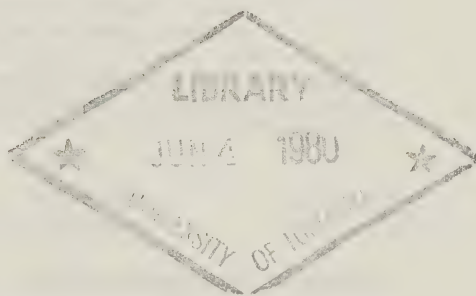
June 17th, 1980

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Education Act, 1974

THE HON. B. STEPHENSON
Minister of Education
and Minister of Colleges and Universities



EXPLANATORY NOTES

SECTION 1.—Subsection 1. A definition of “exceptional pupil” is required because of the use of this term throughout the Act.

The terms “special education program” and “special education services” were described previously only in the Regulation—Elementary and Secondary Schools—General. With the revision of that Regulation, it is now necessary to have a clear definition of what is meant by these terms and since the terms are used in the Act, the definitions are now included in the Act. Special education services include aides, volunteers and professional personnel.

Subsection 2. Paragraph 66 of subsection 1 of section 1 of the Act now reads as follows:

1.—(1) *In this Act and the regulations, except where otherwise provided in the Act or regulations,*

66. *“trainable retarded child” means a child whose intellectual functioning is below the level at which he could profit from a special education program for educable retarded children.*

The purpose of the amendment is to enable persons of compulsory school age to attend a school for trainable retarded pupils until they attain the age of twenty-one years. Heretofore the upper age limit was set at eighteen years of age.

SECTION 2. The purpose of the new clause y is to enable the Minister to require elementary school-boards to implement procedures for the early identification of the needs and abilities of pupils.

It is considered that the exceptionalities of pupils are such that universally accepted definitions thereof may not be possible. It is, however, important for uniformity of approach to the education of exceptional pupils by the school boards in Ontario that there be consistency in the terminology that is used by those boards. The power granted to the Minister by the new clause z is to ensure that in so far as it may be possible those concerned in the education of exceptional pupils will be working with the same terms of reference.

An Act to amend The Education Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 1 of *The Education Act, 1974*, being chapter 109, as amended by the Statutes of Ontario, 1976, chapter 50, section 1 and 1978, chapter 44, sections 1 and 25, is further amended by adding thereto the following paragraphs: s. 1 (1),
amended

20a. “exceptional pupil” means a pupil whose behavioural, communicational, intellectual, physical or multiple exceptionalities are such that he is considered to be suited for placement in a special education program by a committee of the board of which he is a resident pupil established under subparagraph iii of paragraph 5 of subsection 1 of section 10;

62a. “special education program” means an instructional program that meets or is designed to meet the needs of an exceptional pupil;

62b. “special education services” means facilities and resources, including support personnel and equipment, necessary for developing and implementing a special education program.

- (2) Paragraph 66 of subsection 1 of the said section 1 is repealed and the following substituted therefor: s. 1 (1),
par. 66,
re-enacted

66. “trainable retarded child” or “trainable retarded pupil” means a pupil who is six or more years of age, but less than twenty-one years of age, whose intellectual functioning is below the level at which he could profit from a special education program for educable retarded pupils.

2. Subsection 1 of section 8 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 77, section 1 and 1976, chapter 50, section 2, is further amended by adding thereto the following clauses: s. 8 (1),
amended

identification
programs

- (y) require elementary school boards to implement procedures for early identification of the learning abilities and needs of pupils and may provide guidelines in accordance with which such procedures shall be implemented;

special
education
programs
and
services

- (z) in respect of special education programs and services,
 - (i) define exceptionalities of pupils, and prescribe classes, groups or categories of exceptional pupils, or
 - (ii) authorize boards to develop definitions of exceptionalities of pupils and to prescribe classes, groups or categories of exceptional pupils,

and require boards to employ such definitions or use such prescriptions as are established under subclause i or ii, as the case may be.

s. 10 (1),
par. 5,
re-enacted

- 3.—**(1) Paragraph 5 of subsection 1 of section 10 of the said Act is repealed and the following substituted therefor:

special
education
programs

- 5. governing the provision, establishment, organization and administration of,
 - (i) special education programs,
 - (ii) special education services, and
 - (iii) committees to identify exceptional pupils and to make and review placements of exceptional pupils,

and, subject to paragraph 6*a* of section 146, prescribing generally or with application to a particular board, the date by which and the extent to which such programs and services shall be established.

s. 10 (1),
par. 14,
subpar. iii,
re-enacted

- (2) Subparagraph iii of paragraph 14 of subsection 1 of the said section 10 is repealed and the following substituted therefor:

- iii. are admitted to a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act.

s. 12,
amended

- 4.—**(1) Section 12 of the said Act is amended by adding thereto the following subsections:

Demonstra-
tion
schools

- (3*a*) Subject to the approval of the Lieutenant Governor in Council, the Minister may,

- (a) establish, maintain and operate one or more demonstration schools; or

SECTION 3.—Subsection 1. Paragraph 5 as re-enacted will enable regulations to be made to provide for a phasing-in of special education programs and services in an orderly fashion for all boards generally or for specific boards as circumstances realistically require leading to the complete implementation of special education programs and services by the 1st of September, 1985.

The paragraph as re-enacted clarifies the power to make regulations in respect of special education identification, placement and review committees of boards. This is consistent with the new definitions of "special education program" and "special education services" in section 1 of the Bill.

Subsection 2. Subparagraph iii of paragraph 14 of subsection 1 of section 10 now reads as follows:

iii. are placed in an approved home as defined in The Mental Hospitals Act or a detention and observation home established under The Provincial Courts Act.

The regulation making power is broadened so that regulations may be made governing the payment of the cost of education at elementary and secondary schools of pupils who are admitted to or are resident in a wider spectrum of facilities, homes and institutions.

SECTION 4.—Subsection 1. The amendment would enable the Minister to establish schools for pupils with learning disabilities and for whom a residential setting is required, to enter into an agreement with a university, for the operation of such schools and to make agreements with boards and certain other bodies for the secondment of teachers and other personnel for such schools.

Subsection 2. Clause f of section 1 of *The Provincial Schools Negotiations Act, 1975* now reads as follows:

(f) "school" means a school operated by,

(i) the Ministry of Correctional Services,

(ii) the Ministry of Health, or

(iii) the Ministry of Education,

but does not include the Ontario Teacher Education College, a summer course or a correspondence course.

The purpose of this section is to ensure that in the future the employment of teachers at a demonstration school is not the responsibility of the Provincial Schools Authority established under *The Provincial Schools Negotiations Act, 1975*, but rather will be a matter of negotiation with employers of teachers or of staff, or with such university or universities with which an agreement is reached for the provision of a demonstration school.

SECTION 5. Subsection 3 of section 20 of the Act now reads as follows:

- (3) The fact that a child is blind, deaf or mentally handicapped is not of itself an unavoidable cause under clause b of subsection 2 if the child is eligible for admission to the Ontario School for the Blind, an Ontario School for the Deaf or a school or class for trainable retarded children.*

The present subsection 3 provides that the fact that a child is blind, deaf or mentally handicapped is not of itself a cause to be excused from attendance at school if the child is eligible for admission to the Ontario School for the Blind, an Ontario School for the Deaf or a school or class for trainable retarded children. The amendment removes this condition so that whether or not a child is eligible for admission to one of those schools, his blindness, deafness, or mental handicap is not of itself a cause for being excused from attendance at school.

SECTION 6. Section 34 of the Act now reads as follows:

- 34.—(1) *A person is not qualified to be a resident pupil in respect of an elementary school if he is unable by reason of mental or physical handicap to profit by instruction in an elementary school.*
- (2) The inability of a pupil to profit by instruction in an elementary school because of a mental or physical handicap shall be determined by a committee established by the board in accordance with this section.*

- (b) enter into an agreement with a university to provide for the establishment, maintenance and operation by the university, under such terms and conditions as the Minister and the university may agree upon, of a demonstration school,

for exceptional pupils whose learning disabilities are such that a residential setting is required.

(3b) Commencing with the school year 1980-81, a demonstration school referred to in subsection 3a that is established by the Minister before this section comes into force is deemed not to be a school operated by the Ministry of Education for the purposes of *The Provincial Schools Negotiations Act, 1975*, and the provincial schools authority is not responsible for any matter relating to the employment of teachers at a demonstration school. Idem
1975, c. 81

- (2) Subsection 4 of the said section 12 is amended by striking out “such schools for the deaf or blind” in the third and fourth lines and inserting in lieu thereof “schools continued or established under this section”. s. 12 (4),
amended

5. Subsection 3 of section 20 of the said Act is amended by striking out “if the child is eligible for admission to the Ontario School for the Blind, an Ontario School for the Deaf or a school or class for trainable retarded children” in the third, fourth and fifth lines. s. 20 (3),
amended

6. Section 34 of the said Act is repealed and the following substituted therefor: s.34,
re-enacted

34.—(1) In this section,

Interpre-
tation

(a) “board” includes The Metropolitan Toronto School Board;

(b) “pupil” includes a trainable retarded pupil;

(c) “school” includes a school or class for trainable retarded pupils.

(2) Where a principal considers that a pupil who attends his school is, because of a mental or a mental and one or more additional handicaps, unable to profit by instruction, or where the parent or guardian of a pupil considers that the pupil is, because of a mental or a mental and one or more additional handicaps, unable to profit by instruction, the principal shall refer the matter to the appropriate supervisory officer who shall refer the matter to the board, and the board shall appoint a committee of three persons consisting of a supervisory officer, a principal and a legally qualified psychiatrist, none of whom is a person to whom the matter has been previously referred. Inability
to profit
by instruc-
tion

Inquiry
by
committee

(3) The committee referred to in subsection 2 shall,

- (a) inquire into the alleged inability of the pupil to profit by instruction;
- (b) inquire into the handicap of the pupil; and
- (c) determine whether the pupil can profit by instruction,

and the committee shall make a written report to the board of its determination.

Idem

(4) The committee shall, for the purposes of its inquiry, report any determination under subsection 3, study all existing reports in respect of the pupil, hear the teachers, the parent or guardian of the pupil, where reasonably possible, the pupil, and any other person who may be able to contribute information bearing upon the matter and may, with the consent of the parent or guardian of the pupil, and of the pupil where he is an adult, obtain and consider in respect of the pupil, the report of an assessment conducted by a person considered by the committee to be competent for the purpose.

Costs

(5) Any costs incurred in respect of an assessment or examination under this section, or in respect of the obtaining of other evidence required by the committee, shall be paid by the board referred to in subsection 2.

Review

(6) Where the parent or guardian of a person in respect of whom a determination has been made under subsection 3 to be unable to profit by instruction or such person, where he is an adult,

- (a) believes that by reason of improvement in the condition of the person or other cause the person has become able to profit by such instruction; and
- (b) furnishes to a supervisory officer of the board in whose jurisdiction the person resides, evidence or information to establish his belief,

the board shall appoint a committee constituted in accordance with subsection 2 that shall review the determination previously made under this section and confirm or alter such determination, and for such purpose the committee has the powers and duties of a committee under subsection 3, which subsection applies with necessary modifications to such a review.

Action
to be
taken by
committee

(7) Where a committee constituted in accordance with subsection 2 determines that a pupil is unable to profit by instruction, the board within whose jurisdiction the pupil resides shall,

(3) *Where the principal of an elementary school considers that a pupil who attends his school is unable by reason of a mental or physical handicap to profit by instruction in an elementary school, or where the parents or guardian of a pupil consider that the pupil is unable to profit by instruction by reason of a mental or physical handicap, the principal shall refer the matter to the appropriate supervisory officer who shall refer the matter to the board, and the board shall appoint a committee of three persons consisting of a supervisory officer and a principal, neither of whom is the supervisory officer or principal to whom the matter has been previously referred, and,*

(a) a legally qualified medical practitioner where the pupil allegedly has a physical handicap; or

(b) a legally qualified psychiatrist where the pupil allegedly has a mental handicap or a multiple handicap involving both mental and physical defect.

(4) *The committee referred to in subsection 3 shall inquire into the alleged inability of the pupil to profit by instruction and the mental or physical condition of the pupil, determine whether the pupil can profit by instruction and make a written report to the board of its determination and, for the purposes of its inquiry, report and determination, the committee shall study all existing reports in respect of the pupil, hear the teachers, parents or guardian of the pupil and any other person who may be able to contribute information bearing upon the matter and may, with the consent of the parents or guardian of the pupil, obtain and consider in respect of the pupil,*

(a) in the case of alleged mental handicap, a report of an intellectual assessment conducted by a person considered by the committee to be competent for the purpose; and

(b) in the case of alleged physical handicap, a report of a medical examination conducted by a legally qualified medical practitioner,

and any costs incurred in respect of such assessment or examination, or in respect of the obtaining of other evidence required by the committee, shall be paid by the board.

(5) *Where the parent or guardian of a person determined under this section to be unable to profit by instruction in an elementary school,*

(a) believes that by reason of improvement in the mental or physical condition of the person or other cause the person has become able to profit by such instruction; and

(b) furnishes to a supervisory officer of the board in whose jurisdiction the person resides evidence or information to establish his belief,

the board shall appoint a committee constituted in accordance with subsection 3 which shall review the determination previously made under this section and confirm or alter such determination, and for such purpose the committee has the powers and duties of a committee under subsection 4, which subsection applies mutatis mutandis.

(6) *Where a person is excluded from an elementary school under this section, the board shall forthwith notify the Minister.*

At present, a board has power to exclude a person from an elementary school if he is unable to profit from instruction by reason of mental or physical handicap. The section as re-enacted makes it possible for a board to exclude a pupil from any school, including a school for trainable retarded pupils, only where the committee has inquired into the alleged disability and made a determination that the pupil cannot profit from instruction because of a mental or a mental and one or more additional handicaps.

The amendment further requires that where a person is excluded under the provisions of section 34, the board shall assist the parent or guardian to locate the services and facilities required for the person, notify the Minister of the exclusion and of the assistance given and provide for an annual review of the exclusion until the person reaches the age of twenty-one years.

SECTION 7. Section 69 now reads as follows:

69.—(1) *In sections 69 to 78,*

- (a) *“committee” means an advisory committee on schools for trainable retarded children;*
- (b) *“divisional board” means a divisional board of education and includes The Metropolitan Toronto School Board;*
- (c) *“local association” means a parent’s group that is affiliated with the Ontario Association for the Mentally Retarded and that operates within the area of jurisdiction of the board;*
- (d) *“school division” includes the Metropolitan Area as defined in The Municipality of Metropolitan Toronto Act.*

(2) *For the purposes of sections 69 to 78, The Metropolitan Toronto School Board shall be deemed to be organized as a divisional board on the 1st day of January, 1969.*

The new definition of “board” in section 69 has the effect of requiring all school boards in the province, except the boards of education in Metropolitan Toronto and The James Bay Lowlands Secondary School Board, to provide education for their trainable retarded pupils.

In Metropolitan Toronto, education for trainable retarded pupils continues to be the responsibility of The Metropolitan Toronto School Board. In the area of jurisdiction of The James Bay Lowlands Secondary School Board, education for the trainable retarded pupils will be provided by The Moose Factory Island District School Area Board, The Moosonee District School Area Board and The Moosonee Roman Catholic Separate School Board.

Subsection 2 is re-enacted to clarify that all the members of The Metropolitan Toronto School Board are trustees for the purposes of schools for trainable retarded pupils.

SECTION 8. Section 70 of the Act now reads as follows:

70.—(1) *Subject to subsection 2, every divisional board shall provide adequate accommodation for the trainable retarded children who reside in the school division and shall establish and maintain a school or class for the trainable retarded children who are admitted under section 75.*

(2) *A divisional board may, in lieu of establishing and maintaining a school or class for trainable retarded children, enter into an agreement with another divisional board to provide for the instruction of the trainable retarded children who reside in the school division of the first-mentioned board in a school or class for trainable retarded children under the jurisdiction of the other board and for the payment of fees in respect of such pupils.*

- (a) exclude the pupil from school and assist the parent or guardian to locate services suited to the needs of the person;
- (b) forthwith notify the Minister of the exclusion and of the assistance given under clause *a*; and
- (c) provide for an annual review of the exclusion of such person until he attains the age of twenty-one years.

7. Section 69 of the said Act is repealed and the following substituted therefor: s. 69,
re-enacted

69.—(1) In sections 69 to 78, Interpre-
tation

- (a) “board” means a public school board, a Roman Catholic separate school board, a Protestant separate school board, a board of education other than a board of education for an area municipality in The Municipality of Metropolitan Toronto and includes The Metropolitan Toronto School Board;
- (b) “committee” means an advisory committee on schools for trainable retarded pupils;
- (c) “local association” means a parents’ group that is affiliated with the Ontario Association for the Mentally Retarded and that operates within the area of jurisdiction of the board;

(2) All members of The Metropolitan Toronto School Board are trustees for the purpose of its schools for trainable retarded pupils. Metropolitan
Toronto
School
Board

8. Section 70 of the said Act is repealed and the following substituted therefor: s. 70,
re-enacted

70.—(1) Subject to subsection 2 and to the regulations, every board shall provide adequate accommodation for the trainable retarded pupils, Provision
of
adequate
accommodation

- (a) who are resident pupils of the board; and
- (b) in respect of whom a placement in a school or class for trainable retarded pupils has been made by a committee established under paragraph 5 of subsection 1 of section 10,

and shall establish and maintain a school or class for such trainable retarded pupils in which special education programs and services shall be provided in accordance with the regulations and in the language of instruction of the trainable retarded pupils.

Agreement
with other
board

(2) A board may, in lieu of establishing and maintaining a school or class for the trainable retarded pupils for whom it is required to provide accommodation under subsection 1, enter into an agreement with another board to provide for the instruction of such trainable retarded pupils in a school or class for trainable retarded pupils under the jurisdiction of the other board and for the payment of fees in respect of such trainable retarded pupils.

Placement
and review

(3) Where an agreement has been entered into under subsection 2, a committee established under paragraph 5 of subsection 1 of section 10 by the board that provides the instruction shall be responsible for the placement and the review of the placement of trainable retarded pupils who are qualified to be resident pupils of the other board that is party to such agreement.

s. 71,
re-enacted

9. Section 71 of the said Act is repealed and the following substituted therefor:

Attendance
beyond
age 21

71.—(1) A trainable retarded pupil has the right to attend a school or class for trainable retarded pupils established by the board of which he is a resident pupil or provided under an agreement made under subsection 2 of section 70 or to which he is admitted under subsection 2 until the last school day in June in the year in which he attains the age of twenty-one years.

Admission
of other
trainable
retarded
pupils

(2) A board may admit to a school for trainable retarded pupils that it operates a trainable retarded pupil who does not have the right to attend such school under subsection 1 where the committee of the board established under paragraph 5 of subsection 1 of section 10 recommends the placement of such trainable retarded pupil in the trainable retarded school or class operated by the board, and fees in accordance with the regulations are paid to the board on behalf of such trainable retarded pupil.

s. 72 (1),
re-enacted

10. Subsection 1 of section 72 of the said Act is repealed and the following substituted therefor:

Advisory
committee

(1) A divisional board and The Metropolitan Toronto School Board shall, subject to subsection 1a, establish an advisory committee on schools for trainable retarded pupils.

Idem

(1a) Where a divisional board establishes a committee under subsection 2 of section 178a, it may,

(a) discontinue the committee established under subsection 1; or

(b) continue the committee established under subsection 1 and appoint one of the members appointed under clause b of subsection 2 to the committee established under subsection 2 of section 178a.

- (3) Where a child referred to in subsection 2 is admitted to or excluded from a school or class for trainable retarded children by the admissions board of the divisional board that operates the school or class, such admission or exclusion shall be deemed to be a decision of an admissions board for the board of the school division in which the child resides.*

Subsection 1 is re-enacted to provide for the admission of pupils of boards referred to in section 69 to schools or classes for trainable retarded pupils where such placement is determined by a committee established under paragraph 5 of subsection 1 of section 10 and to require that the programs and services that are provided to such pupils are in accordance with the regulations and in the language of instruction of the trainable retarded pupils. At present, such pupils are admitted under section 75 of the Act. This section is now repealed (see section 11 of the Bill).

Subsection 2 is re-enacted to be complementary to the amendments to section 69 of the Act.

The amendment to subsection 3 provides that a committee established under paragraph 5 of subsection 1 of section 10 by the board that provides the instruction is responsible for the placement and review of placement of trainable retarded pupils of the board that is paying the fees under an agreement provided for in subsection 2.

SECTION 9. Section 71 now reads as follows:

- 71.—(1) Subject to section 75, a trainable retarded child whose parent or guardian resides in a school division has the right to attend a school or class for trainable retarded children established by the board of the school division or provided under an agreement made under subsection 2 of section 70.*
- (2) Subject to section 75, a divisional board may admit to a school for trainable retarded children operated by the board a child who does not have the right to attend such school under subsection 1.*

Since section 75 is being repealed (see section 11 of the Bill) internal references to that section are being deleted.

Subsections 1 and 2, as re-enacted, provide for a trainable retarded pupil who attains the age of twenty-one years in the period January 1st to June 29th a right or entitlement to continue in school until the 30th day of June in the year in which he attains the age of twenty-one years.

Subsection 2, as re-enacted, is complementary to the provisions of subsection 3 of section 70 (see subsection 2 of section 8 of the Bill) in respect of trainable retarded pupils who wish to attend a trainable retarded school or class and who do not qualify to attend under subsection 1 of section 71.

Section 71 is now consistent with the provisions of the new section 69 of the Act.

SECTION 10. This amendment is complementary to the new section 178a that provides for the establishment of a special education advisory committee. A divisional board of education may decide to broaden the basis of representation on the committee established under section 72 or terminate the committee on schools for trainable retarded pupils and establish a committee under section 178a, or continue the advisory committee for trainable retarded pupils along with the advisory committee under section 178a. The Metropolitan Toronto School Board will retain its advisory committee for trainable retarded pupils.

The new subsection 1b permits a board, other than a board referred to in subsection 1, to establish an advisory committee on schools for trainable retarded pupils.

SECTION 11. The provision for an admissions board for schools or classes for trainable retarded pupils is removed.

Committees, provided in accordance with the regulations, will now be responsible for the placement and program review of exceptional pupils which by definition includes trainable retarded pupils (see section 8 of the Bill).

Section 76 is no longer required because each of the boards therein referred to will now be required to provide for its resident trainable retarded pupils.

SECTION 12. Section 77 now reads as follows:

- 77.—(1) *Where a divisional board provides instruction in a school or class for trainable retarded children for a pupil whose parent or guardian does not reside in the school division, the board of the school division or secondary school district in which his parent or guardian resides, shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations.*
- (2) *Where a divisional board provides instruction in a school or class for trainable retarded children for a pupil whose parent or guardian does not reside in a school division or a secondary school district but does reside in a school section or in a separate school zone, the board of the school section or separate school zone of which the parent or guardian is a supporter shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations.*
- (3) *Where a child is admitted to a school or class for trainable retarded children but his parent or guardian is resident on lands that are exempt from taxation for school purposes and that have been designated by the Minister as a school section for which a board has been appointed under subsection 1 of section 68 or that have been designated a secondary school district for which a board has been appointed under subsection 2 of section 68, the board shall pay to the divisional board a fee calculated in accordance with the regulations.*

Subsection 1 is re-enacted to be consistent with the changes made in section 69 of the Act.

Subsections 2 and 3 are repealed because the payments of fees will now be provided for in an agreement made under subsection 2 of section 70 of the Act.

SECTION 13. The changes to section 78 of the Act are complementary to the changes in section 69 of the Act.

SECTION 14. The amendment makes mandatory the provision by a board of special education programs and services for its exceptional pupils in the language of instruction in which they would ordinarily have been instructed and requires such programs and services to be fully phased in in accordance with the regulations by September 1, 1985.

SECTION 15. Paragraph 38 of subsection 1 of section 147 now reads as follows:

38. *employ and pay teachers to conduct an education program in a juvenile detention and observation home established under The Provincial Courts Act, a psychiatric facility as defined in the regulations and a facility designated under The Developmental Services Act, 1974 in which an educational program is not provided by the Ministry, provide instructional supplies and consultative help for the pupils therein and permanent improvements for the classrooms connected therewith.*

(1b) A board other than a board referred to in subsection 1 may establish an advisory committee on schools for trainable retarded pupils under this section, in which case subsections 2, 3, 4, 5 and 6 and sections 73 and 74 apply with necessary modifications to such advisory committee. Idem

11. Sections 75 and 76 of the said Act are repealed. ss. 75, 76,
repealed

12. Section 77 of the said Act is repealed and the following substituted therefor: s. 77,
re-enacted

77. Where a divisional board provides instruction in a school or class for trainable retarded pupils for a trainable retarded pupil who is not a resident pupil of the board, the divisional board of which the trainable retarded pupil is qualified to be a resident pupil shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations. Fees for
non-resident
pupils of
divisional
boards

13.—(1) Subsection 2 of section 78 of the said Act is amended by striking out “but not in a school division” in the second line. s. 78 (2),
amended

(2) Subsection 3 of the said section 78 is amended by striking out “divisional” in the sixth line and in the seventh line. s. 78 (3),
amended

14. Section 146 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 50, section 21, is further amended by adding thereto the following paragraph: s. 146,
amended

6a. before the 1st day of September, 1985, provide or enter into an agreement with another board to provide in accordance with the regulations special education programs and special education services for its exceptional pupils in the language of instruction of such pupils. special
education
programs
and
services

15. Paragraph 38 of subsection 1 of section 147 of the said Act is repealed and the following substituted therefor: s. 147 (1),
par. 38,
re-enacted

38. with the approval of the Minister, employ and pay teachers to conduct an education program in a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act and in which the Ministry does not provide an education program and provide instructional supplies and consultative help for the pupils therein and permanent improvements for the classrooms connected therewith. programs
in
detention
homes

16. Subsection 2 of section 163 of the said Act is repealed and the following substituted therefor: s. 163 (2),
re-enacted

(2) A board may provide for a person who is qualified to be a resident pupil of the board, transportation to and from the Ontario Idem

R.S.O. 1970,
c. 378
1974, c. 2
R.S.O. 1970,
c. 269
1978, c. 67

School for the Blind, an Ontario School for the Deaf, a demonstration school established by or operated under an agreement with the Minister for pupils with severe learning disabilities, a centre classified as a Group K hospital under *The Public Hospitals Act*, a facility designated under *The Developmental Services Act, 1974*, a psychiatric facility designated as such under *The Mental Health Act* and a children's mental health centre approved under *The Children's Mental Health Services Act, 1978*.

s. 178a,
enacted

- 17.** The said Act is further amended by adding thereto the following section:

SPECIAL EDUCATION ADVISORY COMMITTEE

Interpre-
tation

178a.—(1) In this section,

- (a) "board" means a divisional board of education, a county and district combined Roman Catholic separate school board, a board of education in The Municipality of Metropolitan Toronto, The Metropolitan Separate School Board and The Windsor Roman Catholic Separate School Board;
- (b) "committee" means a special education advisory committee;
- (c) "local association" means an association or organization of parents that operates locally within the area of jurisdiction of a board and that is affiliated with an association or organization that is not an association or organization of professional educators but that is incorporated and operates throughout Ontario to further the interests and well-being of one or more groups of exceptional children or adults.

Advisory
committee

- (2) Every board shall, subject to subsection 6, establish a special educational advisory committee that shall consist of,

- (a) one representative from each of twelve local associations selected by the board from among the local associations in the area of jurisdiction of the board, as nominated by the local association and appointed by the board;
- (b) where the board provides a French-language instructional unit as defined in clause *c* of section 254, one or more members who are French-speaking appointed by the board as representative of the French-speaking ratepayers or supporters of the board;

The amendment extends the kinds of facilities, institutions, homes and hospitals in which a board may provide teachers and educational assistance to carry out an educational program.

SECTION 16. The amendment adds demonstration schools for pupils with severe learning disabilities, crippled children's treatment centres and facilities designated under *The Children's Mental Health Services Act, 1978* to the list of facilities to and from which a board may transport its resident pupils.

SECTION 17. The section provides for the establishment of advisory committees to make recommendations to school boards in respect of the establishment and development by the boards of special education programs and services. The committees are mandatory for the larger boards and permissive for smaller boards and in the case of boards that already have an advisory committee on trainable retarded pupils, such boards are authorized to comply with this section by enlarging and altering the representation on such committee to accord with the requirements of this section.

- (c) where the board provides English-language schools or classes under sections 252 and 266, one or more members who are English-speaking appointed by the board as representative of the English-speaking ratepayers or supporters of the board; and
- (d) three members appointed by the board from among its members,

and, in addition to the members referred to in clauses *a*, *b*, *c* and *d*, the board may appoint one or more additional members who are not representative of either a local association or the French-speaking community and are not members of the board or of a committee of the board.

(3) Each of the persons appointed under subsection 2 who are not members of the board shall have the qualifications required for members of the board that appointed them and shall hold office during the term of the members of the board and until the new board is organized. ^{Idem}

(4) Section 202 applies with necessary modifications to a member of a committee established under subsection 2. ^{Application of s. 202}

(5) One of the members of a committee appointed by a board of education under clause *d* of subsection 2 shall be a member of the board of education elected by separate school electors. ^{Members of committee}

(6) A board that establishes a committee under subsection 2 shall select as one of the local associations for the purposes of clause *a* of subsection 2 a local association as defined in clause *c* of subsection 1 of section 69. ^{Local associations}

(7) An advisory committee on schools for trainable retarded pupils, established under subsection 1 of section 72, shall satisfy the requirements for a committee under this section where, ^{Requirements for advisory committee}

- (a) a representative from each of twelve local associations selected by the board, none of which is a local association as defined in clause *c* of subsection 1 of section 69, is added to the advisory committee on schools for trainable retarded pupils;
- (b) the board appoints to the said advisory committee a person as referred to in clause *b* or *c* of subsection 2 where the board provides a French-language instructional unit as therein referred to; and
- (c) in the case of an advisory committee established by a divisional board of education, one of the members

appointed under clause *b* of subsection 2 of section 72 is a member of such board elected by separate school electors,

and such advisory committee may make recommendations as provided in subsection 8.

Recommendations

(8) A committee established under subsection 2 may make recommendations to the board in respect of any matter affecting the establishment and development of special education programs and services in respect of exceptional pupils of the board.

Application of ss. 72 (5, 6), 73 and 74

(9) Subsections 5 and 6 of section 72, section 73 and section 74 apply with necessary modifications to a committee established under subsection 2.

Members of committee

(10) A district school area board, a Protestant separate school board, a combined separate school board and a rural separate school board may appoint a committee consisting of two members appointed by the school board from among its members and two members appointed by the local associations in the area of jurisdiction of the school board, or where no such local association or associations have been established, two members appointed by the school board who are not members of such board.

Commencement

18. This Act comes into force on the day it receives Royal Assent.

Short title

19. The short title of this Act is *The Education Amendment Act, 1980*.

An Act to amend
The Education Act, 1974

1st Reading

May 23rd, 1980

2nd Reading

3rd Reading

THE HON. B. STEPHENSON
Minister of Education and
Minister of Colleges and Universities

(Government Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Education Act, 1974

THE HON. B. STEPHENSON
Minister of Education
and Minister of Colleges and Universities

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1.—Subsection 1. A definition of “exceptional pupil” is required because of the use of this term throughout the Act.

The terms “special education program” and “special education services” were described previously only in the Regulation—Elementary and Secondary Schools—General. With the revision of that Regulation, it is now necessary to have a clear definition of what is meant by these terms and since the terms are used in the Act, the definitions are now included in the Act. Special education services include aides, volunteers and professional personnel.

An Act to amend The Education Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 1 of *The Education Act, 1974*, being ^{s. 1 (1),} chapter 109, as amended by the Statutes of Ontario, 1976, chapter 50, section 1 and 1978, chapter 44, sections 1 and 25, is further amended by adding thereto the following paragraphs:

20a. “exceptional pupil” means a pupil whose behavioural, communicational, intellectual, physical or multiple exceptionalities are such that he is considered to need placement in a special education program by a committee established under subparagraph iii of paragraph 5 of subsection 1 of section 10, of the board,

- (i) of which he is a resident pupil,
- (ii) that admits or enrolls the pupil other than pursuant to an agreement with another board for the provision of education, or
- (iii) to which the cost of education in respect of the pupil is payable by the Minister;

62a. “special education program” means, in respect of an exceptional pupil, an educational program that is based on and modified by the results of continuous assessment and evaluation and that includes a plan containing specific objectives and an outline of educational services that meets the needs of the exceptional pupil;

62b. “special education services” means facilities and resources, including support personnel and equipment, necessary for developing and implementing a special education program.

s. 1 (1),
par. 66,
re-enacted

- (2) Paragraph 66 of subsection 1 of the said section 1 is repealed and the following substituted therefor:

66. “trainable retarded child” or “trainable retarded pupil” means an exceptional pupil whose intellectual functioning is below the level at which he could profit from a special education program for educable retarded pupils.

s. 8,
amended

2. Section 8 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 72, section 1 and 1976, chapter 50, section 2, is further amended by adding thereto the following subsection:

Identification
programs
and special
education
programs
and services

(1a) The Minister shall ensure that all exceptional children in Ontario have available to them, in accordance with this Act and the appropriate regulations, special education programs and special education services without payment of fees by parents or guardians resident in Ontario, and shall provide for the parents or guardians to appeal the appropriateness of the special education placement, and for these purposes the Minister shall,

- (a) require school boards to implement procedures for early and ongoing identification of the learning abilities and needs of pupils, and shall prescribe standards in accordance with which such procedures be implemented; and
- (b) in respect of special education programs and services, define exceptionalities of pupils, and prescribe classes, groups or categories of exceptional pupils, and require boards to employ such definitions or use such prescriptions as established under this clause.

s. 10 (1),
par. 5,
re-enacted

- 3.—(1) Paragraph 5 of subsection 1 of section 10 of the said Act is repealed and the following substituted therefor:

special
education
programs

5. governing the provision, establishment, organization and administration of,

- (i) special education programs,
- (ii) special education services, and
- (iii) committees to identify exceptional pupils and to make and review placements of exceptional pupils,

and, subject to paragraph 6a of section 146, prescribing generally or with application to a particular board, the date by which and the extent to which such programs and services shall be established.

Subsection 2. Paragraph 66 of subsection 1 of section 1 of the Act now reads as follows:

1.—(1) *In this Act and the regulations, except where otherwise provided in the Act or regulations,*

66. *“trainable retarded child” means a child whose intellectual functioning is below the level at which he could profit from a special education program for educable retarded children.*

The purpose of the amendment is to both lower and raise the age limit for attendance at a school for trainable retarded pupils. Heretofore the upper age limit was set at eighteen years of age.

SECTION 2. The purpose of the new subsection 1a is to enable the Minister to require elementary school boards to implement procedures for the early identification of the needs and abilities of pupils.

It is considered that the exceptionalities of pupils are such that universally accepted definitions thereof may not be possible. It is, however, important for uniformity of approach to the education of exceptional pupils by the school boards in Ontario that there be consistency in the terminology that is used by those boards. The power granted to the Minister by subsection 1a ensures that in so far as it may be possible those concerned in the education of exceptional pupils will be working with the same terms of reference.

SECTION 3.—Subsection 1. Paragraph 5 as re-enacted will enable regulations to be made to provide for a phasing-in of special education programs and services in an orderly fashion for all boards generally or for specific boards as circumstances realistically require leading to the complete implementation of special education programs and services by the 1st of September, 1985.

The paragraph as re-enacted clarifies the power to make regulations in respect of special education identification, placement and review committees of boards. This is consistent with the new definitions of “special education program” and “special education services” in section 1 of the Bill.

Subsection 2. The new paragraph 5a provides for the making of a regulation by which a parent or guardian of a pupil may appeal the identification of the pupil as an exceptional pupil and the placement of the pupil in a special education program.

Subsection 3. Subparagraph iii of paragraph 14 of subsection 1 of section 10 now reads as follows:

- iii. are placed in an approved home as defined in The Mental Hospitals Act or a detention and observation home established under The Provincial Courts Act.*

The regulation making power is broadened so that regulations may be made governing the payment of the cost of education at elementary and secondary schools of pupils who are admitted to or are resident in a wider spectrum of facilities, homes and institutions.

SECTION 4.—Subsection 1. The amendment would enable the Minister to establish schools for pupils with learning disabilities and for whom a residential setting is required, to enter into an agreement with a university, for the operation of such schools and to make agreements with boards and certain other bodies for the secondment of teachers and other personnel for such schools.

Subsection 2. Clause f of section 1 of *The Provincial Schools Negotiations Act, 1975* now reads as follows:

(f) "school" means a school operated by,

(i) the Ministry of Correctional Services,

(ii) the Ministry of Health, or

(iii) the Ministry of Education,

but does not include the Ontario Teacher Education College, a summer course or a correspondence course.

The purpose of this section is to ensure that in the future the employment of teachers at a demonstration school is not the responsibility of the Provincial Schools Authority established under *The Provincial Schools Negotiations Act, 1975*, but rather will be a matter of negotiation with employers of teachers or of staff, or with such university or universities with which an agreement is reached for the provision of a demonstration school.

SECTION 5. Subsection 3 of section 20 of the Act now reads as follows:

- (3) The fact that a child is blind, deaf or mentally handicapped is not of itself an unavoidable cause under clause b of subsection 2 if the child is eligible for admission to the Ontario School for the Blind, an Ontario School for the Deaf or a school or class for trainable retarded children.*

The present subsection 3 provides that the fact that a child is blind, deaf or mentally handicapped is not of itself a cause to be excused from attendance at school if the child is eligible for admission to the Ontario School for the Blind, an Ontario School for the Deaf or a school or class for trainable retarded children. The amendment removes this condition so that whether or not a child is eligible for admission to one of those schools, his blindness, deafness, or mental handicap is not of itself a cause for being excused from attendance at school.

- (2) Subsection 1 of the said section 10 is amended by adding thereto the following paragraph: s. 10 (1),
amended

5a. governing procedures with respect to parents or guardians for appeals in respect of identification and placement of exceptional pupils in special education programs. identification
and
placement
appeals

- (3) Subparagraph iii of paragraph 14 of subsection 1 of the said section 10 is repealed and the following substituted therefor: s. 10 (1),
par. 14,
subpar. iii,
re-enacted

iii. are admitted to a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act.

- 4.—(1) Section 12 of the said Act is amended by adding thereto the following subsections: s. 12,
amended

(3a) Subject to the approval of the Lieutenant Governor in Council, the Minister may, Demonstra-
tion
schools

(a) establish, maintain and operate one or more demonstration schools; or

(b) enter into an agreement with a university to provide for the establishment, maintenance and operation by the university, under such terms and conditions as the Minister and the university may agree upon, of a demonstration school,

for exceptional pupils whose learning disabilities are such that a residential setting is required.

(3b) Commencing with the school year 1980-81, a demonstration school referred to in subsection 3a that is established by the Minister before this section comes into force is deemed not to be a school operated by the Ministry of Education for the purposes of *The Provincial Schools Negotiations Act, 1975*, and the provincial schools authority is not responsible for any matter relating to the employment of teachers at a demonstration school. Idem
1975, c. 81

- (2) Subsection 4 of the said section 12 is amended by striking out “such schools for the deaf or blind” in the third and fourth lines and inserting in lieu thereof “schools continued or established under this section”. s. 12 (4),
amended

5. Subsection 3 of section 20 of the said Act is amended by striking out “if the child is eligible for admission to the Ontario School for the Blind, an Ontario School for the Deaf or a school or class for trainable retarded children” in the third, fourth and fifth lines. s. 20 (3),
amended

6. Section 32 of the said Act is amended by adding thereto the following subsections: s. 32,
amended

Application
of subss.
1 and 4

(5) Subsections 1 and 4 apply with necessary modifications to a trainable retarded child in respect of a school section on such date as may be designated by the Lieutenant Governor in Council or the 1st day of January, 1985, whichever occurs first.

Application
of subss.
2 and 4

(6) Subsections 2 and 4 apply with necessary modifications to a trainable retarded child in respect of a separate school zone on such date as may be designated by the Lieutenant Governor in Council or the 1st day of January, 1985, whichever occurs first.

s. 34,
re-enacted

7. Section 34 of the said Act is repealed and the following substituted therefor:

Interpre-
tation



34.—(1) In this section,

- (a) “board” includes The Metropolitan Toronto School Board;
- (b) “hard to serve pupil” means a pupil who, under this section, is determined to be unable to profit by instruction offered by a board due to a mental handicap or a mental and one or more additional handicaps;
- (c) “school” includes a school or class for trainable retarded pupils.

Inability
to profit
by
instruction

(2) Where a principal considers that an exceptional pupil who attends his school is, because of a mental or a mental and one or more additional handicaps, unable to profit by instruction offered by the board, or where the parent or guardian of a pupil considers that the pupil is, because of a mental or a mental and one or more additional handicaps, unable to profit by instruction offered by the board, the principal shall refer the matter to the appropriate supervisory officer who shall refer the matter to the board, and the board shall appoint a committee of three persons consisting of a supervisory officer, a principal and a legally qualified medical practitioner who has expertise in respect of the mental or other handicap of the pupil, none of whom is a person to whom the matter has been previously referred.

Inquiry
by
committee

(3) The committee referred to in subsection 2 shall,

- (a) in accordance with subsection 4, inquire into the alleged inability of the pupil to profit by instruction offered by the board;
- (b) inquire into the handicap or handicaps of the pupil; and

SECTION 6. Under section 37 of the Act a trainable retarded child is qualified to be a resident pupil in respect of the secondary school district of a divisional board of education. When, pursuant to an Order in Council made under subsection 4 of section 70 of the Act, as enacted by section 11 of the Bill, a board other than a divisional board of education becomes responsible for the education of trainable retarded pupils it is proposed that such a pupil would, having regard to the school support of his parent or guardian, become qualified to be a resident pupil in respect of the public school section or separate school zone for the board that the pupil is to attend. The subsections added to section 32 of the Act produce that result when taken in conjunction with the amendment made to subsection 3 of section 37 of the Act as provided in section 8 of the Bill.

SECTION 7. Section 34 of the Act now reads as follows:

- 34.—(1) *A person is not qualified to be a resident pupil in respect of an elementary school if he is unable by reason of mental or physical handicap to profit by instruction in an elementary school.*
- (2) *The inability of a pupil to profit by instruction in an elementary school because of a mental or physical handicap shall be determined by a committee established by the board in accordance with this section.*
- (3) *Where the principal of an elementary school considers that a pupil who attends his school is unable by reason of a mental or physical handicap to profit by instruction in an elementary school, or where the parents or guardian of a pupil consider that the pupil is unable to profit by instruction by reason of a mental or physical handicap, the principal shall refer the matter to the appropriate supervisory officer who shall refer the matter to the board, and the board shall appoint a committee of three persons consisting of a supervisory officer and a principal, neither of whom is the supervisory officer or principal to whom the matter has been previously referred, and,*
- (a) *a legally qualified medical practitioner where the pupil allegedly has a physical handicap; or*
- (b) *a legally qualified psychiatrist where the pupil allegedly has a mental handicap or a multiple handicap involving both mental and physical defect.*
- (4) *The committee referred to in subsection 3 shall inquire into the alleged inability of the pupil to profit by instruction and the mental or physical condition of the pupil, determine whether the pupil can profit by instruction and make a written report to the board of its determination and, for the purposes of its inquiry, report and determination, the committee shall study all existing reports in respect of the pupil, hear the teachers, parents or guardian of the pupil and any other person who may be able to contribute information bearing upon the matter and may, with the consent of the parents or guardian of the pupil, obtain and consider in respect of the pupil,*
- (a) *in the case of alleged mental handicap, a report of an intellectual assessment conducted by a person considered by the committee to be competent for the purpose; and*
- (b) *in the case of alleged physical handicap, a report of a medical examination conducted by a legally qualified medical practitioner,*

and any costs incurred in respect of such assessment or examination, or in respect of the obtaining of other evidence required by the committee, shall be paid by the board.

(5) Where the parent or guardian of a person determined under this section to be unable to profit by instruction in an elementary school,

(a) believes that by reason of improvement in the mental or physical condition of the person or other cause the person has become able to profit by such instruction; and

(b) furnishes to a supervisory officer of the board in whose jurisdiction the person resides evidence or information to establish his belief,

the board shall appoint a committee constituted in accordance with subsection 3 which shall review the determination previously made under this section and confirm or alter such determination, and for such purpose the committee has the powers and duties of a committee under subsection 4, which subsection applies mutatis mutandis.

(6) Where a person is excluded from an elementary school under this section, the board shall forthwith notify the Minister.

At present, a board has power to exclude a person from an elementary school if he is unable to profit from instruction by reason of mental or physical handicap. The section as re-enacted implements the following principles:

1. A duty is placed on boards to co-operate with parents or guardians of pupils who cannot profit by instruction in locating a suitable placement for such pupils without cost to the parent or guardian.
2. A final appeal to a Special Education Tribunal is provided as of right from the decision of a board either that the pupil is a hard to serve pupil or from the placement of such pupil outside the school system.

The new section 34*a* provides for the establishment of Special Education Tribunals by the Lieutenant Governor in Council. The Lieutenant Governor in Council may also by order establish procedures for such tribunals including the power to fix and assess costs.

The new section 34*b* provides for a further appeal mechanism, in addition to that established under the regulations, to deal with parents or guardians who are dissatisfied with a decision in respect of the identification or placement of a pupil as an exceptional pupil.

- (c) determine whether the pupil can profit by instruction offered by the board or determine that the pupil is a hard to serve pupil,

and the committee shall make a written report of its findings and of its determination to the board and to the parent or guardian of the pupil.

(4) The committee shall, for the purposes of its inquiry, study ^{Idem} all existing reports in respect of the pupil, hear the teachers, the parent or guardian of the pupil, where reasonably possible the pupil, and any other person who may be able to contribute information bearing upon the matter and may, with the consent of the parent or guardian of the pupil, and of the pupil where he is an adult and capable of giving such consent, obtain and consider in respect of the pupil, the report of an assessment conducted by a person considered by the committee to be competent for the purpose.

(5) Any costs incurred in respect of an assessment or examination under this section, or in respect of the obtaining of other evidence required by the committee under subsection 3 or under subsection 6 shall be paid by the board referred to in subsection 2. ^{Costs}

(6) Where the parent or guardian of a person in respect of whom a determination has been made under clause c of subsection 3, or the person, where he is an adult, ^{Review}

- (a) believes that by reason of improvement in the condition of the person or other cause the person has become able to profit by instruction; and
- (b) furnishes to a supervisory officer of the board in whose jurisdiction the person resides, evidence or information to establish such belief,

the board shall appoint a committee constituted in accordance with subsection 2 that shall review the determination in respect of the person last made under this section and confirm or alter such determination and for such purpose the committee has the powers and duties of a committee under subsection 3, which subsection applies with necessary modifications to such a review.

(7) Where a committee under subsection 3 or subsection 6 determines that a pupil is a hard to serve pupil, the committee shall so notify the board and the board shall consider the recommendation and determine that the pupil is a hard to serve pupil or that the pupil is considered to need placement in a special education program, as the case may be, and shall notify the parent or guardian of the pupil in writing of its determination. ^{Action to be taken by committee}

Program for
exceptional
pupil

(8) Where the board determines that the pupil is considered to need placement in a special education program, the board shall refer the matter to the appropriate committee established under subparagraph iii of paragraph 5 of subsection 1 of section 10 that shall determine, designate or design an appropriate special education program for the exceptional pupil.

Placement
of hard to
serve
pupil

(9) Where the board determines that the pupil is a hard to serve pupil and the parent or guardian of the pupil agrees with the said determination, the board shall assist the parent or guardian to locate a placement suited to the needs of the pupil and reimburse the parent or guardian for any expenses incurred by the parent or guardian in locating such placement.

Appeal to
Tribunal

(10) Where,

- (a) the board determines that a pupil is a hard to serve pupil and the parent or guardian of the pupil disagrees with such determination and believes that the pupil is able to profit by instruction; or
- (b) the board locates a placement under subsection 9 and the parent or guardian disagrees with the placement,

the parent or guardian of the pupil may, within fifteen days of the receipt of the notice under subsection 7 or any time prior to the implementation of the placement under subsection 9, notify the board in writing of the disagreement and the board shall forthwith refer the matter to the secretary of a Special Education Tribunal established under subsection 1 of section 34a, by forwarding all the documentation outlining the special education programs and special education services that have been provided to the pupil and all existing reports and relevant material in respect of the pupil.

Costs

(11) The board shall reimburse the parent or guardian for any expenses he incurs in connection with the referral to and subsequent hearing by the Tribunal referred to in subsection 10, provided that such expenses are approved by the Tribunal.

Hearing by
Tribunal

(12) The Special Education Tribunal shall consider the referral and, after a hearing and review of the report of the committee referred to in subsection 3 and the determination of the board, shall find that,

- (a) the pupil is a hard to serve pupil;
- (b) the pupil is considered to need placement in a special education program; or

- (c) the proposed placement under subsection 9 is or is not suited to the needs of the pupil,

and so notify in writing the parent or guardian of the pupil, the board and the Minister.

(13) Where the Tribunal finds that the pupil is considered to need placement in a special education program, the board shall provide a special education program and special education services for the pupil and the board shall, within sixty days of receipt of the notice under subsection 12, inform the Minister of the special education services that have been provided for the pupil.

Findings
of
Tribunal

(14) Where, under subsection 12, the Tribunal finds that the pupil is a hard to serve pupil or that the placement under subsection 9 is not suited to the needs of the pupil, the board shall assist the parent or guardian to locate a placement or a new placement, as the case may be, suited to the needs of the pupil and reimburse the parent or guardian for any expenses incurred by the parent or guardian in locating such placement.

Idem

(15) Where, pursuant to an application by the board or by the pupil or on his behalf for judicial review under *The Judicial Review Procedure Act, 1971*, the finding of the Special Education Tribunal is set aside, the determination of the board under subsection 7 shall be referred to a Special Education Tribunal for a new hearing conducted by members of the Tribunal other than those who first heard the matter if the board or the parent or guardian of the pupil, as the case may be, makes application therefor to the secretary of the Special Education Tribunal by registered mail within fifteen days after the date of the order of the court setting aside the finding of the Special Education Tribunal and the provisions of subsections 11, 12, 13 and 14 apply with necessary modifications in respect of a hearing by the Special Education Tribunal under this subsection.

New
Tribunal
provided
1971, c. 48

(16) A placement of a hard to serve pupil under subsection 9 or 14 shall be made in Ontario, except where no placement suited to the needs of the pupil is available in Ontario, a placement may be made outside Ontario.

Placement
in
Ontario

(17) Where a hard to serve pupil is placed under subsection 9 or 14, Ontario shall pay the cost, if any, of such placement.

Cost of
placement

34a. —(1) For the purposes of section 34, the Lieutenant Governor in Council shall establish one or more tribunals known as Special Education Tribunals, provincial or regional, and appoint a secretary of such tribunals.

Establish-
ment of
Special
Education
Tribunal

(2) The Lieutenant Governor in Council may by order,

Procedures
of
Special
Education
Tribunals

- (a) establish the procedures that shall apply; and
- (b) authorize Special Education Tribunals to fix and assess costs,

with respect to matters dealt with by Special Education Tribunals.

Leave
to
appeal

34b.—(1) Where a parent or guardian of a pupil has exhausted all rights of appeal under the regulations in respect of the identification or placement of the pupil as an exceptional pupil and is dissatisfied with the decision in respect of the identification or placement, the parent or guardian may apply to the secretary of a Special Education Tribunal for a hearing for leave to appeal to a regional tribunal established by the Minister under subsection 2 in respect of the identification or placement.

Establishment
of regional
tribunal

(2) Where leave to appeal is granted under subsection 1, a regional tribunal shall be established by the Minister to hear the appeal of the parent or guardian.

Hearing
by Special
Education
Tribunal

(3) Notwithstanding subsection 1, a Special Education Tribunal may with the consent of the parties before it in lieu of granting leave to appeal to a regional tribunal hear and dispose of the appeal of the parent or guardian.

Regulations

(4) The Lieutenant Governor in Council may make regulations governing the provision, establishment, organization and administration of a regional tribunal and regulating and controlling the practice and procedure before such tribunal including the costs of persons before such tribunal.

Decision
final

(5) The decision of a Special Education Tribunal or of a regional tribunal under this section is final and binding upon the parties to any such decision.

Disposition

(6) The tribunal hearing the appeal may,

- (a) dismiss the appeal; or
- (b) grant the appeal and make such order as it considers necessary with respect to the identification or placement of the pupil.

s. 37 (3),
amended

8. Subsection 3 of section 37 of the said Act is amended by adding at the end thereof "until such date as may be designated by the Lieutenant Governor in Council or the 31st day of December, 1984, whichever occurs first".

s. 45 (1),
re-enacted

9. Subsection 1 of section 45 of the said Act is repealed and the following substituted therefor:

Right
of certain
pupils to
attend school
in another
jurisdiction

(1) Where, on the 31st day of December, 1984, or on such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, a trainable retarded pupil was enrolled in a trainable retarded school or class that he had a right to attend and,

SECTION 8. The amendment of subsection 3 of section 37 of the Act is complementary to the amendment to section 32 of the Act as provided in section 6 of the Bill.

SECTION 9. Subsection 1 of section 45 of the Act now reads as follows:

- (1) *Where, on the 31st day of December, 1968, a pupil was enrolled in a public, separate or secondary school that he had a right to attend, and the school on and after the 1st day of January, 1969, is situated in a school division or a combined separate school zone, as the case may be, other than the school division or the combined separate school zone in which the pupil resides, the pupil has, in addition to any other right that he may have under this Act, subject to subsection 5 of section 37, the right to attend the school until he completes his education in the school.*

The subsection has ceased to have effect because of the passage of time and is repealed.

The new subsection 1 enables a trainable retarded pupil to elect to continue to attend the trainable retarded school or class operated by a divisional board that he has been attending notwithstanding the board of which he is qualified to be a resident pupil commences to operate or provide a trainable retarded school or class.

Where the pupil so elects, the board of which he is qualified to be a resident pupil is required to pay fees to the board that operates the school or class that he attends.

SECTION 10. Section 69 now reads as follows:

69.—(1) *In sections 69 to 78,*

- (a) *“committee” means an advisory committee on schools for trainable retarded children;*
 - (b) *“divisional board” means a divisional board of education and includes The Metropolitan Toronto School Board;*
 - (c) *“local association” means a parent’s group that is affiliated with the Ontario Association for the Mentally Retarded and that operates within the area of jurisdiction of the board;*
 - (d) *“school division” includes the Metropolitan Area as defined in The Municipality of Metropolitan Toronto Act.*
- (2) *For the purposes of sections 69 to 78, The Metropolitan Toronto School Board shall be deemed to be organized as a divisional board on the 1st day of January, 1969.*

The new definition of “board” in section 69 has the effect of requiring all school boards in the province, except the boards of education in Metropolitan Toronto and The James Bay Lowlands Secondary School Board, to provide education for their trainable retarded pupils.

In Metropolitan Toronto, education for trainable retarded pupils continues to be the responsibility of The Metropolitan Toronto School Board. In the area of jurisdiction of The James Bay Lowlands Secondary School Board, education for the trainable retarded pupils will be provided by The Moose Factory Island District School Area Board, The Moosonee District School Area Board and The Moosonee Roman Catholic Separate School Board.

Subsection 2 is re-enacted to clarify that all the members of The Metropolitan Toronto School Board are trustees for the purposes of schools for trainable retarded pupils.

SECTION 11. Section 70 of the Act now reads as follows:

- 70.—(1) *Subject to subsection 2, every divisional board shall provide adequate accommodation for the trainable retarded children who reside in the school division and shall establish and maintain a school or class for the trainable retarded children who are admitted under section 75.*
- (2) *A divisional board may, in lieu of establishing and maintaining a school or class for trainable retarded children, enter into an agreement with another divisional board to provide for the instruction of the trainable retarded children who reside in the school division of the first-mentioned board in a school or class for trainable retarded children under the jurisdiction of the other board and for the payment of fees in respect of such pupils.*

- (a) the parent or guardian of the pupil is a supporter of a board other than the board that operates the trainable retarded school or class that the pupil attends; and
- (b) the board of which the pupil is qualified to be a resident pupil, provides instruction for trainable retarded pupils or has entered into an agreement for the provision of such instruction with a board other than the board that on the 31st day of December, 1984, or on such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, operated the trainable retarded school or class in which the pupil was enrolled,

the trainable retarded pupil has, in addition to any other right that he may have under this Act, the right to attend the trainable retarded school or class in which he was enrolled on the 31st day of December, 1984, or such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, until the last school day in June in the year in which he attains the age of twenty-one years, and where such pupil elects to continue to attend the trainable retarded school or class in which he was enrolled, the board of which he is qualified to be a resident pupil shall pay to the divisional board that operates such school or class a fee calculated in accordance with the regulations.

- 10.** Section 69 of the said Act is repealed and the following substituted s. 69,
re-enacted
therefor:

69.—(1) In sections 69 to 78,

Interpre-
tation

- (a) “board” means a public school board, a Roman Catholic separate school board, a Protestant separate school board, a board of education other than a board of education for an area municipality in The Municipality of Metropolitan Toronto and includes The Metropolitan Toronto School Board;
- (b) “committee” means an advisory committee on schools for trainable retarded pupils;
- (c) “local association” means a parents’ group that is affiliated with the Ontario Association for the Mentally Retarded and that operates within the area of jurisdiction of the board;

(2) All members of The Metropolitan Toronto School Board are trustees for the purpose of its schools for trainable retarded pupils. Metropolitan
Toronto
School
Board

- 11.** Section 70 of the said Act is repealed and the following substituted s. 70,
re-enacted
therefor:

Provision
of
adequate
accommodation

70.—(1) Subject to subsections 2 and 4 and to the regulations, every board shall provide adequate accommodation for the trainable retarded pupils,

(a) who are exceptional pupils of the board; and

(b) in respect of whom a placement in a school or class for trainable retarded pupils has been made by a committee established under paragraph 5 of subsection 1 of section 10,

and shall establish and maintain a school or class for such trainable retarded pupils in which special education programs and services shall be provided in accordance with the regulations and in the English language or, where the pupil is enrolled in a school or class established under Part XI, the French language, as the case may be.

Agreement
with other
board

(2) A board may, in lieu of establishing and maintaining a school or class for the trainable retarded pupils for whom it is required to provide accommodation under subsection 1, enter into an agreement with another board to provide for the instruction of such trainable retarded pupils in a school or class for trainable retarded pupils under the jurisdiction of the other board and for the payment of fees in respect of such trainable retarded pupils.

Placement
and review

(3) Where an agreement has been entered into under subsection 2, a committee established under paragraph 5 of subsection 1 of section 10 by the board that provides the instruction shall be responsible for the placement and the review of the placement of trainable retarded pupils who are qualified to be resident pupils of the other board that is party to such agreement.

Application
of subss.
1 and 2

(4) Subsections 1 and 2 apply on the 1st day of January, 1985 or on such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, to a public school board, a Roman Catholic separate school board and a Protestant separate school board.

s. 71,
re-enacted

12. Section 71 of the said Act is repealed and the following substituted therefor:

Attendance
beyond
age 21

71.—(1) A trainable retarded pupil has the right to attend a school or class for trainable retarded pupils established by the board of which he is a resident pupil or provided under an agreement made under subsection 2 of section 70 or to which he is admitted under subsection 2 until the last school day in June in the year in which he attains the age of twenty-one years.

Admission
of other
trainable
retarded
pupils

(2) A board may admit to a school for trainable retarded pupils that it operates a trainable retarded pupil who does not have the

- (3) *Where a child referred to in subsection 2 is admitted to or excluded from a school or class for trainable retarded children by the admissions board of the divisional board that operates the school or class, such admission or exclusion shall be deemed to be a decision of an admissions board for the board of the school division in which the child resides.*

Subsection 1 is re-enacted to provide for the admission of pupils of boards referred to in section 69 to schools or classes for trainable retarded pupils where such placement is determined by a committee established under paragraph 5 of subsection 1 of section 10 and to require that the programs and services that are provided to such pupils are in accordance with the regulations and in the language of instruction of the trainable retarded pupils. At present, such pupils are admitted under section 75 of the Act. This section is now repealed (see section 14 of the Bill).

Subsection 2 is re-enacted to be complementary to the amendments to section 69 of the Act.

The amendment to subsection 3 provides that a committee established under paragraph 5 of subsection 1 of section 10 by the board that provides the instruction is responsible for the placement and review of placement of trainable retarded pupils of the board that is paying the fees under an agreement provided for in subsection 2.

Subsection 4 provides that a board that was not authorized to operate or provide a school or class for trainable retarded children shall operate or provide such a school or class on such date as the Lieutenant Governor in Council may designate or on the 1st day of January, 1985 if such a designation is not made.

SECTION 12. Section 71 now reads as follows:

- 71.—(1) *Subject to section 75, a trainable retarded child whose parent or guardian resides in a school division has the right to attend a school or class for trainable retarded children established by the board of the school division or provided under an agreement made under subsection 2 of section 70.*
- (2) *Subject to section 75, a divisional board may admit to a school for trainable retarded children operated by the board a child who does not have the right to attend such school under subsection 1.*

Since section 75 is being repealed (see section 14 of the Bill) internal references to that section are being deleted.

Subsections 1 and 2, as re-enacted, provide for a trainable retarded pupil who attains the age of twenty-one years in the period January 1st to June 29th a right or entitlement to continue in school until the 30th day of June in the year in which he attains the age of twenty-one years.

Subsection 2, as re-enacted, is complementary to the provisions of subsection 3 of section 70 (see subsection 2 of section 8 of the Bill) in respect of trainable retarded pupils who wish to attend a trainable retarded school or class and who do not qualify to attend under subsection 1 of section 71.

Section 71 is now consistent with the provisions of the new section 69 of the Act.

SECTION 13. This amendment is complementary to the new section 178a that provides for the establishment of a special education advisory committee. A divisional board of education may decide to broaden the basis of representation on the committee established under section 72 or terminate the committee on schools for trainable retarded pupils and establish a committee under section 178a, or continue the advisory committee for trainable retarded pupils along with the advisory committee under section 178a. The Metropolitan Toronto School Board will retain its advisory committee for trainable retarded pupils.

The new subsection 1b permits a board, other than a board referred to in subsection 1, to establish an advisory committee on schools for trainable retarded pupils.

SECTION 14. The provision for an admissions board for schools or classes for trainable retarded pupils is removed.

Committees, provided in accordance with the regulations, will now be responsible for the placement and program review of exceptional pupils which by definition includes trainable retarded pupils (see section 11 of the Bill).

Section 76 is no longer required because each of the boards therein referred to will now be required to provide for its resident trainable retarded pupils.

SECTION 15. Section 77 now reads as follows:

77.—(1) *Where a divisional board provides instruction in a school or class for trainable retarded children for a pupil whose parent or guardian does not reside in the school division, the board of the school division or secondary school district in which his parent or guardian resides, shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations.*

(2) *Where a divisional board provides instruction in a school or class for trainable retarded children for a pupil whose parent or guardian does not reside in a school division or a secondary school district but does reside in a school section or in a separate school zone, the board of the school section or separate school zone of which the parent or guardian is a supporter shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations.*

(3) *Where a child is admitted to a school or class for trainable retarded children but his parent or guardian is resident on lands that are exempt from taxation for school purposes and that have been designated by the Minister as a school section for which a board has been appointed under subsection 1 of section 68 or that have been designated a secondary school district for which a board has been appointed under subsection 2 of section 68, the board shall pay to the divisional board a fee calculated in accordance with the regulations.*

Subsection 1 is re-enacted to be consistent with the changes made in section 69 of the Act.

Subsections 2 and 3 are repealed because the payments of fees will now be provided for in an agreement made under subsection 2 of section 70 of the Act.

SECTION 16. The changes to section 78 of the Act are complementary to the changes in section 69 of the Act.

SECTION 17. The amendment makes mandatory the provision by a board of special education programs and services for its exceptional pupils in the language of instruction in which they would ordinarily have been instructed and requires such programs and services to be fully phased in in accordance with the regulations by September 1, 1985.

right to attend such school under subsection 1 where the committee of the board established under paragraph 5 of subsection 1 of section 10 recommends the placement of such trainable retarded pupil in the trainable retarded school or class operated by the board, and fees in accordance with the regulations are paid to the board on behalf of such trainable retarded pupil.

- 13.** Subsection 1 of section 72 of the said Act is repealed and the following substituted therefor: s. 72 (1),
re-enacted

(1) A divisional board and The Metropolitan Toronto School Board shall, subject to subsection 1a, establish an advisory committee on schools for trainable retarded pupils. Advisory
committee

(1a) Where a divisional board establishes a committee under subsection 2 of section 178a, it may, Idem

(a) discontinue the committee established under subsection 1; or

(b) continue the committee established under subsection 1 and appoint one of the members appointed under clause b of subsection 2 to the committee established under subsection 2 of section 178a.

(1b) A board other than a board referred to in subsection 1 may establish an advisory committee on schools for trainable retarded pupils under this section, in which case subsections 2, 3, 4, 5 and 6 and sections 73 and 74 apply with necessary modifications to such advisory committee. Idem

- 14.** Sections 75 and 76 of the said Act are repealed. ss. 75, 76,
repealed

- 15.** Section 77 of the said Act is repealed and the following substituted therefor: s. 77,
re-enacted

77. Where a divisional board provides instruction in a school or class for trainable retarded pupils for a trainable retarded pupil who is not a resident pupil of the board, the divisional board of which the trainable retarded pupil is qualified to be a resident pupil shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations. Fees for
non-resident
pupils of
divisional
boards

- 16.—**(1) Subsection 2 of section 78 of the said Act is amended by striking out “but not in a school division” in the second line. s. 78 (2),
amended

(2) Subsection 3 of the said section 78 is amended by striking out “divisional” in the sixth line and in the seventh line. s. 78 (3),
amended

- 17.** Section 146 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 50, section 21, is further amended by adding thereto the following paragraph: s. 146,
amended

special
education
programs
and
services

- 6a. before the 1st day of September, 1985, provide or enter into an agreement with another board to provide in accordance with the regulations special education programs and special education services for its exceptional pupils in the English language or, where the pupil is enrolled in a school or class established under Part XI, the French language, as the case may be.

s. 147 (1),
par. 38,
re-enacted

- 18.** Paragraph 38 of subsection 1 of section 147 of the said Act is repealed and the following substituted therefor:

programs
in
detention
homes

38. with the approval of the Minister, employ and pay teachers to conduct an education program in a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act and in which the Ministry does not provide an education program and provide instructional supplies and consultative help for the pupils therein and permanent improvements for the classrooms connected therewith.

s. 163 (2),
re-enacted

- 19.** Subsection 2 of section 163 of the said Act is repealed and the following substituted therefor:

Idem

(2) A board may provide for a person who is qualified to be a resident pupil of the board, transportation to and from the Ontario School for the Blind, an Ontario School for the Deaf, a demonstration school established by or operated under an agreement with the Minister for pupils with severe learning disabilities, a centre classified as a Group K hospital under *The Public Hospitals Act*, a facility designated under *The Developmental Services Act, 1974*, a psychiatric facility designated as such under *The Mental Health Act* and a children's mental health centre approved under *The Children's Mental Health Services Act, 1978*.

R.S.O. 1970,
c. 378

R.S.O. 1970,
c. 269
1978, c. 67

s. 178a,
enacted

- 20.** The said Act is further amended by adding thereto the following section:

SPECIAL EDUCATION ADVISORY COMMITTEE

Interpre-
tation

178a.—(1) In this section,

- (a) "board" means a divisional board of education, a county and district combined Roman Catholic separate school board, a board of education in The Municipality of Metropolitan Toronto, The Metropolitan Separate School Board and The Windsor Roman Catholic Separate School Board;
- (b) "committee" means a special education advisory committee;

SECTION 18. Paragraph 38 of subsection 1 of section 147 now reads as follows:

38. *employ and pay teachers to conduct an education program in a juvenile detention and observation home established under The Provincial Courts Act, a psychiatric facility as defined in the regulations and a facility designated under The Developmental Services Act, 1974 in which an educational program is not provided by the Ministry, provide instructional supplies and consultative help for the pupils therein and permanent improvements for the classrooms connected therewith.*

The amendment extends the kinds of facilities, institutions, homes and hospitals in which a board may provide teachers and educational assistance to carry out an educational program.

SECTION 19. The amendment adds demonstration schools for pupils with severe learning disabilities, crippled children's treatment centres and facilities designated under *The Children's Mental Health Services Act, 1978* to the list of facilities to and from which a board may transport its resident pupils.

SECTION 20. The section provides for the establishment of advisory committees to make recommendations to school boards in respect of the establishment and development by the boards of special education programs and services. The committees are mandatory for the larger boards and permissive for smaller boards and in the case of boards that already have an advisory committee on trainable retarded pupils, such boards are authorized to comply with this section by enlarging and altering the representation on such committee to accord with the requirements of this section.

- (c) "local association" means an association or organization of parents that operates locally within the area of jurisdiction of a board and that is affiliated with an association or organization that is not an association or organization of professional educators but that is incorporated and operates throughout Ontario to further the interests and well-being of one or more groups of exceptional children or adults.

(2) Every board shall, subject to subsection 6, establish a special educational advisory committee that shall consist of, Advisory committee

- (a) one representative from each of the local associations, not to exceed twelve, in the area of jurisdiction of the board, as nominated by the local association and appointed by the board;
- (b) where the board provides a French-language instructional unit as defined in clause *c* of section 254, one or more members who are French-speaking appointed by the board as representative of the French-speaking ratepayers or supporters of the board;
- (c) where the board provides English-language schools or classes under sections 252 and 266, one or more members who are English-speaking appointed by the board as representative of the English-speaking ratepayers or supporters of the board; and
- (d) three members appointed by the board from among its members,

and, in addition to the members referred to in clauses *a*, *b*, *c* and *d*, the board may appoint one or more additional members who are not representative of either a local association or the French-speaking community and are not members of the board or of a committee of the board.

(3) Each of the persons appointed under subsection 2 who are not members of the board shall have the qualifications required for members of the board that appointed them and shall hold office during the term of the members of the board and until the new board is organized. Idem

(4) Section 202 applies with necessary modifications to a member of a committee established under subsection 2. Application of s. 202

(5) One of the members of a committee appointed by a board of education under clause *d* of subsection 2 shall be a member of the board of education elected by separate school electors. Members of committee

Local
associations

(6) A board that establishes a committee under subsection 2 shall select as one of the local associations for the purposes of clause *a* of subsection 2 a local association as defined in clause *c* of subsection 1 of section 69.

Requirements
for advisory
committee

(7) An advisory committee on schools for trainable retarded pupils, established under subsection 1 of section 72, shall satisfy the requirements for a committee under this section where,

- (a) a representative from each of the local associations, not to exceed twelve, and none of which is a local association as defined in clause *c* of subsection 1 of section 69, is added to the advisory committee on schools for trainable retarded pupils;
- (b) the board appoints to the said advisory committee a person as referred to in clause *b* or *c* of subsection 2 where the board provides a French-language instructional unit as therein referred to; and
- (c) in the case of an advisory committee established by a divisional board of education, one of the members appointed under clause *b* of subsection 2 of section 72 is a member of such board elected by separate school electors,

and such advisory committee may make recommendations as provided in subsection 8.

Recommen-
dations

(8) A committee established under subsection 2 may make recommendations to the board in respect of any matter affecting the establishment and development of special education programs and services in respect of exceptional pupils of the board.

Application
of ss. 72 (5, 6),
73 and 74

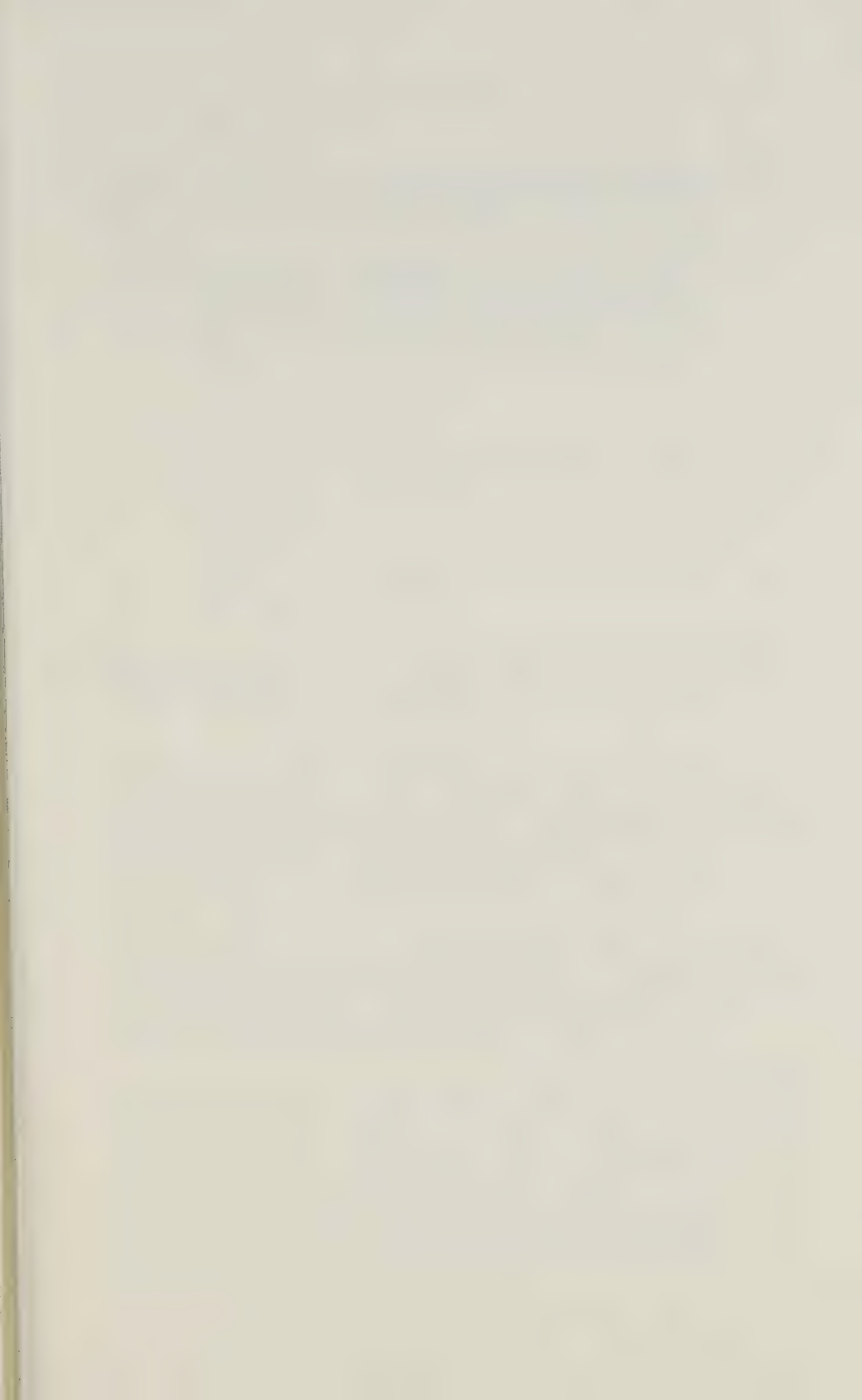
(9) Subsections 5 and 6 of section 72, section 73 and section 74 apply with necessary modifications to a committee established under subsection 2.

Members
of
committee

(10) A district school area board, a Protestant separate school board, a combined separate school board and a rural separate school board shall appoint a committee consisting of two members appointed by the school board from among its members and two members appointed by the local associations in the area of jurisdiction of the school board, or where no such local association or associations have been established, two members appointed by the school board who are not members of such board.

Selection
by board

(11) For the purposes of subsections 2 and 7, where there are more than twelve local associations in the area of jurisdiction of



SECTION 21. Because divisional boards of education have operated or provided schools or classes for trainable retarded children whose parents or guardians are Roman Catholic separate school supporters, the expenditures have been met by grants and local levy for secondary school purposes. In the future when a board becomes authorized by Order of the Lieutenant Governor in Council to operate or provide such schools or classes, expenditures will be met by grants and local levy for elementary school purposes. Divisional boards of education that are affected by any such Order will also levy funds for the trainable retarded schools or classes that they operate for public school purposes and not for secondary school purposes.

SECTION 22. Subsection 1 of section 271*a* permits the Lieutenant Governor in Council to designate a single date upon which the provisions set out shall apply to all boards or to specify the board or boards to which the provisions apply and the respective dates upon which the provisions will have application.

All the members of a divisional board of education have been trustees for the purposes of schools for trainable retarded pupils. Subsection 2 of section 271*a* has the effect of providing that at such time as a Roman Catholic separate school board that has jurisdiction in all or part of the area of jurisdiction of a divisional board assumes responsibility for the provision of trainable retarded education, the members of the divisional board elected by public school electors will become trustees for the purposes of its schools for trainable retarded pupils except where matters relative thereto do not affect such schools exclusively.

The Metropolitan Toronto School Board now operates schools for trainable retarded pupils of Metropolitan Toronto. Subsection 3 of section 271*a* provides that when The Metropolitan Separate School Board commences the operation of such schools for its trainable retarded pupils, The Metropolitan Toronto School Board shall include the costs of operation of its trainable retarded schools in its estimates for public school purposes rather than in its estimates for secondary school purposes.

the board, the board shall select the twelve local associations that shall be represented.

- 21.** Subsection 3 of section 205 of the said Act is amended by inserting after "1" in the third line "for" and by adding thereto the following clauses: s. 205 (3),
amended

(a) where there is no designation by the Lieutenant Governor in Council under clause *b*, the years 1981, 1982, 1983 and 1984 and commencing with the year 1985 and for each subsequent year thereafter such cost of operation shall be included in the estimates for public school purposes under subsection 1; or

(b) where there is a designation by the Lieutenant Governor in Council, the year 1981 and such year or years as may be designated by the Lieutenant Governor in Council and commencing with the year designated by the Lieutenant Governor in Council and for each subsequent year thereafter such cost of operation shall be included in the estimates for public school purposes under subsection 1.

- 22.** The said Act is further amended by adding thereto the following section: s. 271a,
enacted

PART XI-A

TRANSITIONAL PROVISIONS

271a.—(1) Where the Lieutenant Governor in Council designates a date for the purposes of subsections 5 and 6 of section 32, subsection 3 of section 37, subsection 1 of section 45 and subsection 3 of section 205 or any of them, such designation may have general application or may relate to such board or boards as may be set out in the designation. Date and
scope of
designation

(2) Where the Lieutenant Governor in Council designates a date for the purposes of subsection 5 of section 32 and subsection 3 of section 205 in respect of a divisional board, subsection 5 of section 53 ceases to apply to such divisional board. Application
of s. 53 (5)

(3) Effective the date designated by the Lieutenant Governor in Council for the purposes of subsection 3 of section 37, or the 31st day of December, 1984, whichever occurs first, in relation to The Metropolitan Separate School Board and The Metropolitan Toronto School Board, subsection 4 of section 37 ceases to operate and the cost of operation of schools for trainable retarded children operated by The Metropolitan Toronto School Board shall be included in the estimates of such board for public elementary school purposes. Application
and
operation
of s. 37 (4)

Commence-
ment

23. This Act comes into force on the day it receives Royal Assent.

Short title

24. The short title of this Act is *The Education Amendment Act, 1980*.

An Act to amend
The Education Act, 1974

1st Reading

May 23rd, 1980

2nd Reading

June 17th, 1980

3rd Reading

THE HON. B. STEPHENSON
Minister of Education and
Minister of Colleges and Universities

*(Reprinted as amended by the
Committee of the Whole House)*

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Education Act, 1974

THE HON. B. STEPHENSON
Minister of Education
and Minister of Colleges and Universities

(Reprinted as amended by the Social Development Committee)

EXPLANATORY NOTES

SECTION 1.—Subsection 1. A definition of “exceptional pupil” is required because of the use of this term throughout the Act.

The terms “special education program” and “special education services” were described previously only in the Regulation—Elementary and Secondary Schools—General. With the revision of that Regulation, it is now necessary to have a clear definition of what is meant by these terms and since the terms are used in the Act, the definitions are now included in the Act. Special education services include aides, volunteers and professional personnel.

BILL 82

1980

An Act to amend The Education Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 1 of *The Education Act, 1974*, being chapter 109, as amended by the Statutes of Ontario, 1976, chapter 50, section 1 and 1978, chapter 44, sections 1 and 25, is further amended by adding thereto the following paragraphs:

20a. "exceptional pupil" means a pupil whose behavioural, communicational, intellectual, physical or multiple exceptionalities are such that he is considered to need placement in a special education program by a committee established under subparagraph iii of paragraph 5 of subsection 1 of section 10, of the board,



(i) of which he is a resident pupil,

(ii) that admits or enrolls the pupil other than pursuant to an agreement with another board for the provision of education, or

(iii) to which the cost of education in respect of the pupil is payable by the Minister;

62a. "special education program" means, in respect of an exceptional pupil, an educational program that is based on and modified by the results of continuous assessment and evaluation and that includes a plan containing specific objectives and an outline of educational services that meets the needs of the exceptional pupil;

62b. "special education services" means facilities and resources, including support personnel and equipment, necessary for developing and implementing a special education program.

s. 1 (1),
par. 66,
re-enacted

(2) Paragraph 66 of subsection 1 of the said section 1 is repealed and the following substituted therefor:

66. "trainable retarded child" or "trainable retarded pupil" means a pupil who is six or more years of age, but less than twenty-one years of age, whose intellectual functioning is below the level at which he could profit from a special education program for educable retarded pupils.

s. 8,
amended

2. Section 8 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 72, section 1 and 1976, chapter 50, section 2, is further amended by adding thereto the following subsection:

Identification
programs
and special
education
programs
and services

(1a) The Minister shall ensure that all children in Ontario have available to them a free and appropriate public education that, for exceptional children, emphasizes special education programs and services that meet their unique needs, and that the rights of exceptional children and their parents or guardians are protected, and for these purposes the Minister shall,

- (a) require school boards to implement procedures for early and ongoing identification of the learning abilities and needs of pupils, and shall prescribe standards in accordance with which such procedures be implemented; and
- (b) in respect of special education programs and services, define exceptionalities of pupils, and prescribe classes, groups or categories of exceptional pupils, and require boards to employ such definitions or use such prescriptions as established under this clause.

s. 10 (1),
par. 5,
re-enacted

3.—(1) Paragraph 5 of subsection 1 of section 10 of the said Act is repealed and the following substituted therefor:

special
education
programs

5. governing the provision, establishment, organization and administration of,

- (i) special education programs,
- (ii) special education services, and
- (iii) committees to identify exceptional pupils and to make and review placements of exceptional pupils,

and, subject to paragraph 6a of section 146, prescribing generally or with application to a particular board, the date by which and the extent to which such programs and services shall be established.

Subsection 2. Paragraph 66 of subsection 1 of section 1 of the Act now reads as follows:

1.—(1) *In this Act and the regulations, except where otherwise provided in the Act or regulations,*

66. *“trainable retarded child” means a child whose intellectual functioning is below the level at which he could profit from a special education program for educable retarded children.*

The purpose of the amendment is to enable persons of compulsory school age to attend a school for trainable retarded pupils until they attain the age of twenty-one years. Heretofore the upper age limit was set at eighteen years of age.

SECTION 2. The purpose of the new subsection 1a is to enable the Minister to require elementary school-boards to implement procedures for the early identification of the needs and abilities of pupils.

It is considered that the exceptionalities of pupils are such that universally accepted definitions thereof may not be possible. It is, however, important for uniformity of approach to the education of exceptional pupils by the school boards in Ontario that there be consistency in the terminology that is used by those boards. The power granted to the Minister by subsection 1a ensures that in so far as it may be possible those concerned in the education of exceptional pupils will be working with the same terms of reference.

SECTION 3.—Subsection 1. Paragraph 5 as re-enacted will enable regulations to be made to provide for a phasing-in of special education programs and services in an orderly fashion for all boards generally or for specific boards as circumstances realistically require leading to the complete implementation of special education programs and services by the 1st of September, 1985.

The paragraph as re-enacted clarifies the power to make regulations in respect of special education identification, placement and review committees of boards. This is consistent with the new definitions of “special education program” and “special education services” in section 1 of the Bill.

Subsection 2. The new paragraph 5a provides for the making of a regulation by which a parent or guardian of a pupil may appeal the placement of the pupil in a special education program.

Subsection 3. Subparagraph iii of paragraph 14 of subsection 1 of section 10 now reads as follows:

iii. are placed in an approved home as defined in The Mental Hospitals Act or a detention and observation home established under The Provincial Courts Act.

The regulation making power is broadened so that regulations may be made governing the payment of the cost of education at elementary and secondary schools of pupils who are admitted to or are resident in a wider spectrum of facilities, homes and institutions.

SECTION 4.—Subsection 1. The amendment would enable the Minister to establish schools for pupils with learning disabilities and for whom a residential setting is required, to enter into an agreement with a university, for the operation of such schools and to make agreements with boards and certain other bodies for the secondment of teachers and other personnel for such schools.

Subsection 2. Clause f of section 1 of *The Provincial Schools Negotiations Act, 1975* now reads as follows:

(f) "school" means a school operated by,

(i) the Ministry of Correctional Services,

(ii) the Ministry of Health, or

(iii) the Ministry of Education,

but does not include the Ontario Teacher Education College, a summer course or a correspondence course.

The purpose of this section is to ensure that in the future the employment of teachers at a demonstration school is not the responsibility of the Provincial Schools Authority established under *The Provincial Schools Negotiations Act, 1975*, but rather will be a matter of negotiation with employers of teachers or of staff, or with such university or universities with which an agreement is reached for the provision of a demonstration school.

SECTION 5. Subsection 3 of section 20 of the Act now reads as follows:

(3) *The fact that a child is blind, deaf or mentally handicapped is not of itself an unavoidable cause under clause b of subsection 2 if the child is eligible for admission to the Ontario School for the Blind, an Ontario School for the Deaf or a school or class for trainable retarded children.*

The present subsection 3 provides that the fact that a child is blind, deaf or mentally handicapped is not of itself a cause to be excused from attendance at school if the child is eligible for admission to the Ontario School for the Blind, an Ontario School for the Deaf or a school or class for trainable retarded children. The amendment removes this condition so that whether or not a child is eligible for admission to one of those schools, his blindness, deafness, or mental handicap is not of itself a cause for being excused from attendance at school.

- (2) Subsection 1 of the said section 10 is amended by adding thereto the following paragraph: s. 10 (1),
amended

5a. governing procedures with respect to parents or guardians for appeals in respect of placements of exceptional pupils in special education programs. placement
appeals

- (3) Subparagraph iii of paragraph 14 of subsection 1 of the said section 10 is repealed and the following substituted therefor: s. 10 (1),
par. 14,
subpar. iii,
re-enacted

iii. are admitted to a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act.

- 4.—(1) Section 12 of the said Act is amended by adding thereto the following subsections: s. 12,
amended

(3a) Subject to the approval of the Lieutenant Governor in Council, the Minister may, Demonstra-
tion
schools

(a) establish, maintain and operate one or more demonstration schools; or

(b) enter into an agreement with a university to provide for the establishment, maintenance and operation by the university, under such terms and conditions as the Minister and the university may agree upon, of a demonstration school,

for exceptional pupils whose learning disabilities are such that a residential setting is required.

(3b) Commencing with the school year 1980-81, a demonstration school referred to in subsection 3a that is established by the Minister before this section comes into force is deemed not to be a school operated by the Ministry of Education for the purposes of *The Provincial Schools Negotiations Act, 1975*, and the provincial schools authority is not responsible for any matter relating to the employment of teachers at a demonstration school. Idem

1975, c. 81

- (2) Subsection 4 of the said section 12 is amended by striking out "such schools for the deaf or blind" in the third and fourth lines and inserting in lieu thereof "schools continued or established under this section". s. 12 (4),
amended

5. Subsection 3 of section 20 of the said Act is amended by striking out "if the child is eligible for admission to the Ontario School for the Blind, an Ontario School for the Deaf or a school or class for trainable retarded children" in the third, fourth and fifth lines. s. 20 (3),
amended

6. Section 32 of the said Act is amended by adding thereto the following subsections: s. 32,
amended

Application
of subss.
1 and 4

(5) Subsections 1 and 4 apply with necessary modifications to a trainable retarded child in respect of a school section on such date as may be designated by the Lieutenant Governor in Council or the 1st day of January, 1985, whichever occurs first.

Application
of subss.
2 and 4

(6) Subsections 2 and 4 apply with necessary modifications to a trainable retarded child in respect of a separate school zone on such date as may be designated by the Lieutenant Governor in Council or the 1st day of January, 1985, whichever occurs first.

s. 34,
re-enacted

7. Section 34 of the said Act is repealed and the following substituted therefor:

Interpre-
tation

34.—(1) In this section and the regulations,

(a) “appropriate special education program and services” means, in addition to all other relevant considerations,

- (i) an individual education plan for the particular pupil,
- (ii) proper assessments of the pupil’s needs,
- (iii) an opportunity for the pupil to benefit,
- (iv) implementation of a program in conformity with the pre-determined individual education plan,
- (v) periodic evaluation,
- (vi) the suitability of the program and services equivalent to that offered pupils who are not exceptional pupils,
- (vii) a proper educational setting,
- (viii) the offering of the program and services in the least restrictive manner possible, and
- (ix) adherence to the code of procedure set out in subsection 14;

(b) “Board” means the Ontario Special Education Board;

(c) “hard to serve pupil” means an exceptional pupil who suffers from a mental handicap or a mental and one or more additional handicaps and for whom care and treatment are primary educational needs that cannot be met by any board;

SECTION 6. Under section 37 of the Act a trainable retarded child is qualified to be a resident pupil in respect of the secondary school district of a divisional board of education. When, pursuant to an Order in Council made under subsection 4 of section 70 of the Act, as enacted by section 11 of the Bill, a board other than a divisional board of education becomes responsible for the education of trainable retarded pupils it is proposed that such a pupil would, having regard to the school support of his parent or guardian, become qualified to be a resident pupil in respect of the public school section or separate school zone for the board that the pupil is to attend. The subsections added to section 32 of the Act produce that result when taken in conjunction with the amendment made to subsection 3 of section 37 of the Act as provided in section 8 of the Bill.

SECTION 7. Section 34 of the Act now reads as follows:

- 34.—(1) *A person is not qualified to be a resident pupil in respect of an elementary school if he is unable by reason of mental or physical handicap to profit by instruction in an elementary school.*
- (2) *The inability of a pupil to profit by instruction in an elementary school because of a mental or physical handicap shall be determined by a committee established by the board in accordance with this section.*
- (3) *Where the principal of an elementary school considers that a pupil who attends his school is unable by reason of a mental or physical handicap to profit by instruction in an elementary school, or where the parents or guardian of a pupil consider that the pupil is unable to profit by instruction by reason of a mental or physical handicap, the principal shall refer the matter to the appropriate supervisory officer who shall refer the matter to the board, and the board shall appoint a committee of three persons consisting of a supervisory officer and a principal, neither of whom is the supervisory officer or principal to whom the matter has been previously referred, and,*
- (a) *a legally qualified medical practitioner where the pupil allegedly has a physical handicap; or*
- (b) *a legally qualified psychiatrist where the pupil allegedly has a mental handicap or a multiple handicap involving both mental and physical defect.*
- (4) *The committee referred to in subsection 3 shall inquire into the alleged inability of the pupil to profit by instruction and the mental or physical condition of the pupil, determine whether the pupil can profit by instruction and make a written report to the board of its determination and, for the purposes of its inquiry, report and determination, the committee shall study all existing reports in respect of the pupil, hear the teachers, parents or guardian of the pupil and any other person who may be able to contribute information bearing upon the matter and may, with the consent of the parents or guardian of the pupil, obtain and consider in respect of the pupil,*
- (a) *in the case of alleged mental handicap, a report of an intellectual assessment conducted by a person considered by the committee to be competent for the purpose; and*
- (b) *in the case of alleged physical handicap, a report of a medical examination conducted by a legally qualified medical practitioner,*

and any costs incurred in respect of such assessment or examination, or in respect of the obtaining of other evidence required by the committee, shall be paid by the board.

(5) Where the parent or guardian of a person determined under this section to be unable to profit by instruction in an elementary school,

(a) believes that by reason of improvement in the mental or physical condition of the person or other cause the person has become able to profit by such instruction; and

(b) furnishes to a supervisory officer of the board in whose jurisdiction the person resides evidence or information to establish his belief,

the board shall appoint a committee constituted in accordance with subsection 3 which shall review the determination previously made under this section and confirm or alter such determination, and for such purpose the committee has the powers and duties of a committee under subsection 4, which subsection applies mutatis mutandis.

(6) Where a person is excluded from an elementary school under this section, the board shall forthwith notify the Minister.

At present, a board has power to exclude a person from an elementary school if he is unable to profit from instruction by reason of mental or physical handicap. The section as re-enacted implements two principles:

1. A duty is placed on boards to provide an appropriate educational program for all children.
2. An appeal is provided to the Ontario Special Education Board from all decisions of placement committees.

- (d) “placement committee” means a committee of a board established to make and review placements of exceptional pupils.

(2) Where a teacher, principal, parent or pupil considers that a pupil is an exceptional pupil, that pupil shall be referred to a placement committee.

(3) A placement committee shall, Duties

- (a) determine whether a pupil is an exceptional pupil;
- (b) determine, designate or design an appropriate special education program and services for the exceptional pupil;
- (c) review annually the special education program and services offered each exceptional pupil; and
- (d) refer a hard to serve pupil for whom no appropriate program and services are available to the Board.

(4) A parent and pupil may appeal to the Board as of right any determination of a placement committee. Appeal

(5) The Lieutenant Governor in Council shall establish the Ontario Special Education Board. Ontario
Special
Education
Board

(6) The Board shall be composed of a chairman, one or more vice-chairmen and as many members equal in number representative of boards and provincial associations or organizations of parents as the Lieutenant Governor in Council considers proper, all of whom shall be appointed by the Lieutenant Governor in Council. Composition

(7) The chairman or a vice-chairman, one member representative of the boards and one member representative of provincial associations or organizations of parents constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Board. Quorum

(8) The Board may sit in two or more divisions simultaneously so long as a quorum of the Board is present in each division. Divisions
of the
Board

(9) The Board shall exercise such powers and perform such duties as are conferred or imposed upon it by or under this Act. Powers
and duties
of Board

(10) Without limiting the generality of subsection 9, the Board shall, Idem

- (a) hear and determine appeals by parents and pupils from any decision of the placement committee;
- (b) determine, designate or design an appropriate special education program and services for each hard to serve pupil referred to it by a placement committee; and
- (c) review annually the appropriate special education program and services offered to each hard to serve pupil until he attains the age of twenty-one years.

Idem

(11) In the exercise of its powers under clauses *b* and *c* of subsection 10, the Board, with the consent of the parents, may obtain and consider in respect of the hard to serve pupil the report of an assessment conducted by a person considered by the Board to be competent for the purpose, and any costs incurred in respect of such assessment or in respect of the obtaining of other evidence required by the Board shall be paid by the Board.

Powers

(12) Where, after a hearing, the Board has reviewed the decision of a placement committee, the Board may,

- (a) affirm the decision;
- (b) rescind the decision and direct the placement committee to make any other decision that the placement committee is authorized to make under this Act and the regulations and as the Board considers proper; or
- (c) rescind the decision and determine, designate or design an appropriate special education program and services for the exceptional pupil.

Purchase
of service


(13) In the exercise of its powers under clauses *b* and *c* of subsection 10 and clause *c* of subsection 12, the Board may order a board to purchase a special education program and services from any other board, from any centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act, and, if necessary, from the private sector.

Application
of
1971, c. 47

(14) *The Statutory Powers Procedure Act, 1971* applies to all proceedings of the Board.

Code of
procedure

(15) Without limiting the generality of subsection 14, the following code of procedure shall apply to all proceedings of a placement committee and of the Board:


 SECTION 8. The amendment of subsection 3 of section 37 of the Act is complementary to the amendment to section 32 of the Act as provided in section 6 of the Bill.

SECTION 9. Subsection 1 of section 45 of the Act now reads as follows:

- (1) *Where, on the 31st day of December, 1968, a pupil was enrolled in a public, separate or secondary school that he had a right to attend, and the school on and after the 1st day of January, 1969, is situated in a school division or a combined separate school zone, as the case may be, other than the school division or the combined separate school zone in which the pupil resides, the pupil has, in addition to any other right that he may have under this Act, subject to subsection 5 of section 37, the right to attend the school until he completes his education in the school.*

The subsection has ceased to have effect because of the passage of time and is repealed.

The new subsection 1 enables a trainable retarded pupil to elect to continue to attend the trainable retarded school or class operated by a divisional board that he has been attending notwithstanding the board of which he is qualified to be a resident pupil commences to operate or provide a trainable retarded school or class.

Where the pupil so elects, the board of which he is qualified to be a resident pupil is required to pay fees to the board that operates the school or class that he attends. 

1. Parents and pupils shall be given reasonable notice in writing of the meeting of the placement committee or the hearing of the Board.
2. The notice referred to in paragraph 1 shall include,
 - (a) a statement of the time, place and purpose of the placement committee meeting or Board hearing;
 - (b) a written description of the individual special education program and services proposed for the pupil;
 - (c) a written description of any alternative special program and services that are available; and
 - (d) a statement of the rights of parents and pupils to inspect all relevant reports and documents, to obtain an independent assessment, and to make submissions at the meeting or hearing.
3. Parents and pupils shall have an opportunity to examine and cross-examine witnesses, present arguments and make submissions.
4. Decisions of the placement committee and the Board shall be in writing, and shall include,
 - (a) a statement of the individual special educational program and services proposed by the board, parent or pupil and of any other available alternative special program or services;
 - (b) a statement of the evidence upon which the decision was based; and
 - (c) a statement of the reasons for the decision.

8. Subsection 3 of section 37 of the said Act is amended by adding at the end thereof "until such date as may be designated by the Lieutenant Governor in Council or the 31st day of December, 1984, whichever occurs first". s. 37 (3),
amended

9. Subsection 1 of section 45 of the said Act is repealed and the following substituted therefor: s. 45 (1),
re-enacted

(1) Where, on the 31st day of December, 1984, or on such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, a trainable retarded pupil was enrolled in a trainable retarded school or class that he had a right to attend and, Right
of certain
pupils to
attend school
in another
jurisdiction

- (a) the parent or guardian of the pupil is a supporter of a board other than the board that operates the trainable retarded school or class that the pupil attends; and
- (b) the board of which the pupil is qualified to be a resident pupil, provides instruction for trainable retarded pupils or has entered into an agreement for the provision of such instruction with a board other than the board that on the 31st day of December, 1984, or on such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, operated the trainable retarded school or class in which the pupil was enrolled,

the trainable retarded pupil has, in addition to any other right that he may have under this Act, the right to attend the trainable retarded school or class in which he was enrolled on the 31st day of December, 1984, or such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, until the last school day in June in the year in which he attains the age of twenty-one years, and where such pupil elects to continue to attend the trainable retarded school or class in which he was enrolled, the board of which he is qualified to be a resident pupil shall pay to the divisional board that operates such school or class a fee calculated in accordance with the regulations.

s. 69,
re-enacted

10. Section 69 of the said Act is repealed and the following substituted therefor:

Interpre-
tation

69.—(1) In sections 69 to 78,

- (a) “board” means a public school board, a Roman Catholic separate school board, a Protestant separate school board, a board of education other than a board of education for an area municipality in The Municipality of Metropolitan Toronto and includes The Metropolitan Toronto School Board;
- (b) “committee” means an advisory committee on schools for trainable retarded pupils;
- (c) “local association” means a parents’ group that is affiliated with the Ontario Association for the Mentally Retarded and that operates within the area of jurisdiction of the board;

Metropolitan
Toronto
School
Board

(2) All members of The Metropolitan Toronto School Board are trustees for the purpose of its schools for trainable retarded pupils.

s. 70,
re-enacted

11. Section 70 of the said Act is repealed and the following substituted therefor:

SECTION 10. Section 69 now reads as follows:

69.—(1) *In sections 69 to 78,*

- (a) *“committee” means an advisory committee on schools for trainable retarded children;*
 - (b) *“divisional board” means a divisional board of education and includes The Metropolitan Toronto School Board;*
 - (c) *“local association” means a parent’s group that is affiliated with the Ontario Association for the Mentally Retarded and that operates within the area of jurisdiction of the board;*
 - (d) *“school division” includes the Metropolitan Area as defined in The Municipality of Metropolitan Toronto Act.*
- (2) *For the purposes of sections 69 to 78, The Metropolitan Toronto School Board shall be deemed to be organized as a divisional board on the 1st day of January, 1969.*

The new definition of “board” in section 69 has the effect of requiring all school boards in the province, except the boards of education in Metropolitan Toronto and The James Bay Lowlands Secondary School Board, to provide education for their trainable retarded pupils.

In Metropolitan Toronto, education for trainable retarded pupils continues to be the responsibility of The Metropolitan Toronto School Board. In the area of jurisdiction of The James Bay Lowlands Secondary School Board, education for the trainable retarded pupils will be provided by The Moose Factory Island District School Area Board, The Moosonee District School Area Board and The Moosonee Roman Catholic Separate School Board.

Subsection 2 is re-enacted to clarify that all the members of The Metropolitan Toronto School Board are trustees for the purposes of schools for trainable retarded pupils.

SECTION 11. Section 70 of the Act now reads as follows:


- 70.—(1) *Subject to subsection 2, every divisional board shall provide adequate accommodation for the trainable retarded children who reside in the school division and shall establish and maintain a school or class for the trainable retarded children who are admitted under section 75.*
- (2) *A divisional board may, in lieu of establishing and maintaining a school or class for trainable retarded children, enter into an agreement with another divisional board to provide for the instruction of the trainable retarded children who reside in the school division of the first-mentioned board in a school or class for trainable retarded children under the jurisdiction of the other board and for the payment of fees in respect of such pupils.*

- (3) *Where a child referred to in subsection 2 is admitted to or excluded from a school or class for trainable retarded children by the admissions board of the divisional board that operates the school or class, such admission or exclusion shall be deemed to be a decision of an admissions board for the board of the school division in which the child resides.*

Subsection 1 is re-enacted to provide for the admission of pupils of boards referred to in section 69 to schools or classes for trainable retarded pupils where such placement is determined by a committee established under paragraph 5 of subsection 1 of section 10 and to require that the programs and services that are provided to such pupils are in accordance with the regulations and in the language of instruction of the trainable retarded pupils. At present, such pupils are admitted under section 75 of the Act. This section is now repealed (see section 14 of the Bill).

Subsection 2 is re-enacted to be complementary to the amendments to section 69 of the Act.

The amendment to subsection 3 provides that a committee established under paragraph 5 of subsection 1 of section 10 by the board that provides the instruction is responsible for the placement and review of placement of trainable retarded pupils of the board that is paying the fees under an agreement provided for in subsection 2.

 Subsection 4 provides that a board that was not authorized to operate or provide a school or class for trainable retarded children shall operate or provide such a school or class on such date as the Lieutenant Governor in Council may designate or on the 1st day of January, 1985 if such a designation is not made.

SECTION 12. Section 71 now reads as follows:

- 71.—(1) *Subject to section 75, a trainable retarded child whose parent or guardian resides in a school division has the right to attend a school or class for trainable retarded children established by the board of the school division or provided under an agreement made under subsection 2 of section 70.*
- (2) *Subject to section 75, a divisional board may admit to a school for trainable retarded children operated by the board a child who does not have the right to attend such school under subsection 1.*

Since section 75 is being repealed (see section 14 of the Bill) internal references to that section are being deleted.

Subsections 1 and 2, as re-enacted, provide for a trainable retarded pupil who attains the age of twenty-one years in the period January 1st to June 29th a right or entitlement to continue in school until the 30th day of June in the year in which he attains the age of twenty-one years.

Subsection 2, as re-enacted, is complementary to the provisions of subsection 3 of section 70 (see subsection 2 of section 8 of the Bill) in respect of trainable retarded pupils who wish to attend a trainable retarded school or class and who do not qualify to attend under subsection 1 of section 71.

Section 71 is now consistent with the provisions of the new section 69 of the Act.

70.—(1) Subject to subsections 2 and 4 and to the regulations, every board shall provide adequate accommodation for the trainable retarded pupils, Provision of adequate accommodation



(a) who are exceptional pupils of the board; and

(b) in respect of whom a placement in a school or class for trainable retarded pupils has been made by a committee established under paragraph 5 of subsection 1 of section 10,

and shall establish and maintain a school or class for such trainable retarded pupils in which special education programs and services shall be provided in accordance with the regulations and in the English language or, where the pupil is enrolled in a school or class established under Part XI, the French language, as the case may be.

(2) A board may, in lieu of establishing and maintaining a school or class for the trainable retarded pupils for whom it is required to provide accommodation under subsection 1, enter into an agreement with another board to provide for the instruction of such trainable retarded pupils in a school or class for trainable retarded pupils under the jurisdiction of the other board and for the payment of fees in respect of such trainable retarded pupils. Agreement with other board

(3) Where an agreement has been entered into under subsection 2, a committee established under paragraph 5 of subsection 1 of section 10 by the board that provides the instruction shall be responsible for the placement and the review of the placement of trainable retarded pupils who are qualified to be resident pupils of the other board that is party to such agreement. Placement and review

 (4) Subsections 1 and 2 apply on the 1st day of January, 1985 or on such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, to a public school board, a Roman Catholic separate school board and a Protestant separate school board.  Application of subss. 1 and 2

12. Section 71 of the said Act is repealed and the following substituted therefor: s. 71, re-enacted

71.—(1) A trainable retarded pupil has the right to attend a school or class for trainable retarded pupils established by the board of which he is a resident pupil or provided under an agreement made under subsection 2 of section 70 or to which he is admitted under subsection 2 until the last school day in June in the year in which he attains the age of twenty-one years. Attendance beyond age 21

(2) A board may admit to a school for trainable retarded pupils that it operates a trainable retarded pupil who does not have the Admission of other trainable retarded pupils

right to attend such school under subsection 1 where the committee of the board established under paragraph 5 of subsection 1 of section 10 recommends the placement of such trainable retarded pupil in the trainable retarded school or class operated by the board, and fees in accordance with the regulations are paid to the board on behalf of such trainable retarded pupil.

s. 72 (1),
re-enacted

- 13.** Subsection 1 of section 72 of the said Act is repealed and the following substituted therefor:

Advisory
committee

(1) A divisional board and The Metropolitan Toronto School Board shall, subject to subsection 1*a*, establish an advisory committee on schools for trainable retarded pupils.

Idem

(1*a*) Where a divisional board establishes a committee under subsection 2 of section 178*a*, it may,

(*a*) discontinue the committee established under subsection 1; or

(*b*) continue the committee established under subsection 1 and appoint one of the members appointed under clause *b* of subsection 2 to the committee established under subsection 2 of section 178*a*.

Idem

(1*b*) A board other than a board referred to in subsection 1 may establish an advisory committee on schools for trainable retarded pupils under this section, in which case subsections 2, 3, 4, 5 and 6 and sections 73 and 74 apply with necessary modifications to such advisory committee.

ss. 75, 76,
repealed

- 14.** Sections 75 and 76 of the said Act are repealed.

s. 77,
re-enacted

- 15.** Section 77 of the said Act is repealed and the following substituted therefor:

Fees for
non-resident
pupils of
divisional
boards

77. Where a divisional board provides instruction in a school or class for trainable retarded pupils for a trainable retarded pupil who is not a resident pupil of the board, the divisional board of which the trainable retarded pupil is qualified to be a resident pupil shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations.

s. 78 (2),
amended

- 16.—**(1) Subsection 2 of section 78 of the said Act is amended by striking out “but not in a school division” in the second line.

s. 78 (3),
amended

(2) Subsection 3 of the said section 78 is amended by striking out “divisional” in the sixth line and in the seventh line.

s. 146,
amended

- 17.** Section 146 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 50, section 21, is further amended by adding thereto the following paragraph:

SECTION 13. This amendment is complementary to the new section 178a that provides for the establishment of a special education advisory committee. A divisional board of education may decide to broaden the basis of representation on the committee established under section 72 or terminate the committee on schools for trainable retarded pupils and establish a committee under section 178a, or continue the advisory committee for trainable retarded pupils along with the advisory committee under section 178a. The Metropolitan Toronto School Board will retain its advisory committee for trainable retarded pupils.

The new subsection 1b permits a board, other than a board referred to in subsection 1, to establish an advisory committee on schools for trainable retarded pupils.

SECTION 14. The provision for an admissions board for schools or classes for trainable retarded pupils is removed.

Committees, provided in accordance with the regulations, will now be responsible for the placement and program review of exceptional pupils which by definition includes trainable retarded pupils (see section 11 of the Bill).

Section 76 is no longer required because each of the boards therein referred to will now be required to provide for its resident trainable retarded pupils.

SECTION 15. Section 77 now reads as follows:

77.—(1) *Where a divisional board provides instruction in a school or class for trainable retarded children for a pupil whose parent or guardian does not reside in the school division, the board of the school division or secondary school district in which his parent or guardian resides, shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations.*

(2) *Where a divisional board provides instruction in a school or class for trainable retarded children for a pupil whose parent or guardian does not reside in a school division or a secondary school district but does reside in a school section or in a separate school zone, the board of the school section or separate school zone of which the parent or guardian is a supporter shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations.*

(3) *Where a child is admitted to a school or class for trainable retarded children but his parent or guardian is resident on lands that are exempt from taxation for school purposes and that have been designated by the Minister as a school section for which a board has been appointed under subsection 1 of section 68 or that have been designated a secondary school district for which a board has been appointed under subsection 2 of section 68, the board shall pay to the divisional board a fee calculated in accordance with the regulations.*

Subsection 1 is re-enacted to be consistent with the changes made in section 69 of the Act.

Subsections 2 and 3 are repealed because the payments of fees will now be provided for in an agreement made under subsection 2 of section 70 of the Act.

SECTION 16. The changes to section 78 of the Act are complementary to the changes in section 69 of the Act.

SECTION 17. The amendment makes mandatory the provision by a board of special education programs and services for its exceptional pupils in the language of instruction in which they would ordinarily have been instructed and requires such programs and services to be fully phased in in accordance with the regulations by September 1, 1985.

SECTION 18. Paragraph 38 of subsection 1 of section 147 now reads as follows:

38. employ and pay teachers to conduct an education program in a juvenile detention and observation home established under The Provincial Courts Act, a psychiatric facility as defined in the regulations and a facility designated under The Developmental Services Act, 1974 in which an educational program is not provided by the Ministry, provide instructional supplies and consultative help for the pupils therein and permanent improvements for the classrooms connected therewith.

The amendment extends the kinds of facilities, institutions, homes and hospitals in which a board may provide teachers and educational assistance to carry out an educational program.

SECTION 19. The amendment adds demonstration schools for pupils with severe learning disabilities, crippled children's treatment centres and facilities designated under *The Children's Mental Health Services Act, 1978* to the list of facilities to and from which a board may transport its resident pupils.

SECTION 20. The section provides for the establishment of advisory committees to make recommendations to school boards in respect of the establishment and development by the boards of special education programs and services. The committees are mandatory for the larger boards and permissive for smaller boards and in the case of boards that already have an advisory committee on trainable retarded pupils, such boards are authorized to comply with this section by enlarging and altering the representation on such committee to accord with the requirements of this section.

- 6a. before the 1st day of September, 1985, provide or enter into an agreement with another board to provide in accordance with the regulations special education programs and special education services for its exceptional pupils in the English language or, where the pupil is enrolled in a school or class established under Part XI, the French language, as the case may be. special education programs and services

18. Paragraph 38 of subsection 1 of section 147 of the said Act is repealed and the following substituted therefor: s. 147 (1), par. 38, re-enacted

38. with the approval of the Minister, employ and pay teachers to conduct an education program in a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act and in which the Ministry does not provide an education program and provide instructional supplies and consultative help for the pupils therein and permanent improvements for the classrooms connected therewith. programs in detention homes

19. Subsection 2 of section 163 of the said Act is repealed and the following substituted therefor: s. 163 (2), re-enacted

- (2) A board may provide for a person who is qualified to be a resident pupil of the board, transportation to and from the Ontario School for the Blind, an Ontario School for the Deaf, a demonstration school established by or operated under an agreement with the Minister for pupils with severe learning disabilities, a centre classified as a Group K hospital under *The Public Hospitals Act*, a facility designated under *The Developmental Services Act, 1974*, a psychiatric facility designated as such under *The Mental Health Act* and a children's mental health centre approved under *The Children's Mental Health Services Act, 1978*. Idem
R.S.O. 1970, c. 378
R.S.O. 1970, c. 269
1978, c. 67

20. The said Act is further amended by adding thereto the following section: s. 178a, enacted

SPECIAL EDUCATION ADVISORY COMMITTEE

178a.—(1) In this section,

Interpretation

- (a) "board" means a divisional board of education, a county and district combined Roman Catholic separate school board, a board of education in The Municipality of Metropolitan Toronto, The Metropolitan Separate School Board and The Windsor Roman Catholic Separate School Board;
- (b) "committee" means a special education advisory committee;

- (c) “local association” means an association or organization of parents that operates locally within the area of jurisdiction of a board and that is affiliated with an association or organization that is not an association or organization of professional educators but that is incorporated and operates throughout Ontario to further the interests and well-being of one or more groups of exceptional children or adults.

Advisory
committee

(2) Every board shall, subject to subsection 6, establish a special educational advisory committee that shall consist of,



- (a) one representative from each of the local associations, not to exceed twelve, in the area of jurisdiction of the board, as nominated by the local association and appointed by the board;



- (b) where the board provides a French-language instructional unit as defined in clause *c* of section 254, one or more members who are French-speaking appointed by the board as representative of the French-speaking ratepayers or supporters of the board;

- (c) where the board provides English-language schools or classes under sections 252 and 266, one or more members who are English-speaking appointed by the board as representative of the English-speaking ratepayers or supporters of the board; and

- (d) three members appointed by the board from among its members,

and, in addition to the members referred to in clauses *a*, *b*, *c* and *d*, the board may appoint one or more additional members who are not representative of either a local association or the French-speaking community and are not members of the board or of a committee of the board.

Idem

(3) Each of the persons appointed under subsection 2 who are not members of the board shall have the qualifications required for members of the board that appointed them and shall hold office during the term of the members of the board and until the new board is organized.

Application
of s. 202

(4) Section 202 applies with necessary modifications to a member of a committee established under subsection 2.

Members
of
committee

(5) One of the members of a committee appointed by a board of education under clause *d* of subsection 2 shall be a member of the board of education elected by separate school electors.

(6) A board that establishes a committee under subsection 2 shall select as one of the local associations for the purposes of clause *a* of subsection 2 a local association as defined in clause *c* of subsection 1 of section 69. Local associations

(7) An advisory committee on schools for trainable retarded pupils, established under subsection 1 of section 72, shall satisfy the requirements for a committee under this section where, Requirements for advisory committee

- (a) a representative from each of the local associations, not to exceed twelve, and none of which is a local association as defined in clause *c* of subsection 1 of section 69, is added to the advisory committee on schools for trainable retarded pupils;
- (b) the board appoints to the said advisory committee a person as referred to in clause *b* or *c* of subsection 2 where the board provides a French-language instructional unit as therein referred to; and
- (c) in the case of an advisory committee established by a divisional board of education, one of the members appointed under clause *b* of subsection 2 of section 72 is a member of such board elected by separate school electors,

and such advisory committee may make recommendations as provided in subsection 8.

(8) A committee established under subsection 2 may make recommendations to the board in respect of any matter affecting the establishment and development of special education programs and services in respect of exceptional pupils of the board. Recommendations

(9) Subsections 5 and 6 of section 72, section 73 and section 74 apply with necessary modifications to a committee established under subsection 2. Application of ss. 72 (5, 6), 73 and 74

(10) A district school area board, a Protestant separate school board, a combined separate school board and a rural separate school board shall appoint a committee consisting of two members appointed by the school board from among its members and two members appointed by the local associations in the area of jurisdiction of the school board, or where no such local association or associations have been established, two members appointed by the school board who are not members of such board. Members of committee

(11) For the purposes of subsections 2 and 7, where there are more than twelve local associations in the area of jurisdiction of Selection by board

the board, the board shall select the twelve local associations that shall be represented.

s. 205 (3),
amended

21. Subsection 3 of section 205 of the said Act is amended by inserting after "1" in the third line "for" and by adding thereto the following clauses:

- (a) where there is no designation by the Lieutenant Governor in Council under clause *b*, the years 1981, 1982, 1983 and 1984 and commencing with the year 1985 and for each subsequent year thereafter such cost of operation shall be included in the estimates for public school purposes under subsection 1; or
- (b) where there is a designation by the Lieutenant Governor in Council, the year 1981 and such year or years as may be designated by the Lieutenant Governor in Council and commencing with the year designated by the Lieutenant Governor in Council and for each subsequent year thereafter such cost of operation shall be included in the estimates for public school purposes under subsection 1.

s. 271a,
enacted

22. The said Act is further amended by adding thereto the following section:

PART XI-A

TRANSITIONAL PROVISIONS

Date and
scope of
designation


271a.—(1) Where the Lieutenant Governor in Council designates a date for the purposes of subsections 5 and 6 of section 32, subsection 3 of section 37, subsection 1 of section 45 and subsection 3 of section 205 or any of them, such designation may have general application or may relate to such board or boards as may be set out in the designation.

Application
of s. 53 (5)

(2) Where the Lieutenant Governor in Council designates a date for the purposes of subsection 5 of section 32 and subsection 3 of section 205 in respect of a divisional board, subsection 5 of section 53 ceases to apply to such divisional board.


Application
and
operation
of s. 37 (4)

(3) Effective the date designated by the Lieutenant Governor in Council for the purposes of subsection 3 of section 37, or the 31st day of December, 1984, whichever occurs first, in relation to The Metropolitan Separate School Board and The Metropolitan Toronto School Board, subsection 4 of section 37 ceases to operate and the cost of operation of schools for trainable retarded children operated by The Metropolitan Toronto School Board shall be included in the estimates of such board for public elementary school purposes.

 SECTION 21. Because divisional boards of education have operated or provided schools or classes for trainable retarded children whose parents or guardians are Roman Catholic separate school supporters, the expenditures have been met by grants and local levy for secondary school purposes. In the future when a board becomes authorized by Order of the Lieutenant Governor in Council to operate or provide such schools or classes, expenditures will be met by grants and local levy for elementary school purposes. Divisional boards of education that are affected by any such Order will also levy funds for the trainable retarded schools or classes that they operate for public school purposes and not for secondary school purposes.

SECTION 22. Subsection 1 of section 271a permits the Lieutenant Governor in Council to designate a single date upon which the provisions set out shall apply to all boards or to specify the board or boards to which the provisions apply and the respective dates upon which the provisions will have application.

All the members of a divisional board of education have been trustees for the purposes of schools for trainable retarded pupils. Subsection 2 of section 271a has the effect of providing that at such time as a Roman Catholic separate school board that has jurisdiction in all or part of the area of jurisdiction of a divisional board assumes responsibility for the provision of trainable retarded education, the members of the divisional board elected by public school electors will become trustees for the purposes of its schools for trainable retarded pupils except where matters relative thereto do not affect such schools exclusively.

The Metropolitan Toronto School Board now operates schools for trainable retarded pupils of Metropolitan Toronto. Subsection 3 of section 271a provides that when The Metropolitan Separate School Board commences the operation of such schools for its trainable retarded pupils, The Metropolitan Toronto School Board shall include the costs of operation of its trainable retarded schools in its estimates for public school purposes rather than in its estimates for secondary school purposes. 

- 23.** This Act comes into force on the day it receives Royal Assent. Commence-
ment
- 24.** The short title of this Act is *The Education Amendment Act, 1980*. Short title



An Act to amend
The Education Act, 1974

1st Reading

May 23rd, 1980

2nd Reading

June 17th, 1980

3rd Reading

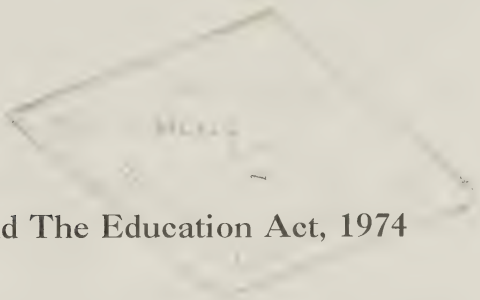
THE HON. B. STEPHENSON
Minister of Education and
Minister of Colleges and Universities

*(Reprinted as amended by the
Social Development Committee)*

3
BILL 82

4TH SESSION, 31ST LEGISLATURE, /ONTARIO
29 ELIZABETH II, 1980

2 (Legislative Council)



An Act to amend The Education Act, 1974

THE HON. B. STEPHENSON
Minister of Education
and Minister of Colleges and Universities

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

An Act to amend The Education Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 1 of *The Education Act, 1974*, being chapter 109, as amended by the Statutes of Ontario, 1976, chapter 50, section 1 and 1978, chapter 44, sections 1 and 25, is further amended by adding thereto the following paragraphs: ^{s. 1 (1), amended}

20a. "exceptional pupil" means a pupil whose behavioural, communicational, intellectual, physical or multiple exceptionalities are such that he is considered to need placement in a special education program by a committee established under subparagraph iii of paragraph 5 of subsection 1 of section 10, of the board,

- (i) of which he is a resident pupil,
- (ii) that admits or enrolls the pupil other than pursuant to an agreement with another board for the provision of education, or
- (iii) to which the cost of education in respect of the pupil is payable by the Minister;

62a. "special education program" means, in respect of an exceptional pupil, an educational program that is based on and modified by the results of continuous assessment and evaluation and that includes a plan containing specific objectives and an outline of educational services that meets the needs of the exceptional pupil;

62b. "special education services" means facilities and resources, including support personnel and equipment, necessary for developing and implementing a special education program.

s. 1 (1),
par. 66,
re-enacted

- (2) Paragraph 66 of subsection 1 of the said section 1 is repealed and the following substituted therefor:

66. “trainable retarded child” or “trainable retarded pupil” means an exceptional pupil whose intellectual functioning is below the level at which he could profit from a special education program for educable retarded pupils.

s. 8,
amended

- 2.** Section 8 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 72, section 1 and 1976, chapter 50, section 2, is further amended by adding thereto the following subsection:

Identification
programs
and special
education
programs
and services

(1a) The Minister shall ensure that all exceptional children in Ontario have available to them, in accordance with this Act and the regulations, appropriate special education programs and special education services without payment of fees by parents or guardians resident in Ontario, and shall provide for the parents or guardians to appeal the appropriateness of the special education placement, and for these purposes the Minister shall,

- (a) require school boards to implement procedures for early and ongoing identification of the learning abilities and needs of pupils, and shall prescribe standards in accordance with which such procedures be implemented; and
- (b) in respect of special education programs and services, define exceptionalities of pupils, and prescribe classes, groups or categories of exceptional pupils, and require boards to employ such definitions or use such prescriptions as established under this clause.

s. 10 (1),
par. 5,
re-enacted

- 3.—(1)** Paragraph 5 of subsection 1 of section 10 of the said Act is repealed and the following substituted therefor:

special
education
programs

- 5. governing the provision, establishment, organization and administration of,
 - (i) special education programs,
 - (ii) special education services, and
 - (iii) committees to identify exceptional pupils and to make and review placements of exceptional pupils,

and, subject to paragraph 6a of section 146, prescribing generally or with application to a particular board, the date by which and the extent to which such programs and services shall be established.

- (2) Subsection 1 of the said section 10 is amended by adding thereto the following paragraph: s. 10 (1),
amended

5a. governing procedures with respect to parents or guardians for appeals in respect of identification and placement of exceptional pupils in special education programs. identification
and
placement
appeals

- (3) Subparagraph iii of paragraph 14 of subsection 1 of the said section 10 is repealed and the following substituted therefor: s. 10 (1),
par. 14,
subpar. iii,
re-enacted

iii. are admitted to a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act.

- 4.—(1) Section 12 of the said Act is amended by adding thereto the following subsections: s. 12,
amended

(3a) Subject to the approval of the Lieutenant Governor in Council, the Minister may, Demonstra-
tion
schools

- (a) establish, maintain and operate one or more demonstration schools; or
- (b) enter into an agreement with a university to provide for the establishment, maintenance and operation by the university, under such terms and conditions as the Minister and the university may agree upon, of a demonstration school,

for exceptional pupils whose learning disabilities are such that a residential setting is required.

(3b) Commencing with the school year 1980-81, a demonstration school referred to in subsection 3a that is established by the Minister before this section comes into force is deemed not to be a school operated by the Ministry of Education for the purposes of *The Provincial Schools Negotiations Act, 1975*, and the provincial schools authority is not responsible for any matter relating to the employment of teachers at a demonstration school. Idem

1975, c. 81

- (2) Subsection 4 of the said section 12 is amended by striking out “such schools for the deaf or blind” in the third and fourth lines and inserting in lieu thereof “schools continued or established under this section”. s. 12 (4),
amended

5. Subsection 3 of section 20 of the said Act is amended by striking out “if the child is eligible for admission to the Ontario School for the Blind, an Ontario School for the Deaf or a school or class for trainable retarded children” in the third, fourth and fifth lines. s. 20 (3),
amended

6. Section 32 of the said Act is amended by adding thereto the following subsections: s. 32,
amended

Application
of subss.
1 and 4

(5) Subsections 1 and 4 apply with necessary modifications to a trainable retarded child in respect of a school section on such date as may be designated by the Lieutenant Governor in Council or the 1st day of January, 1985, whichever occurs first.

Application
of subss.
2 and 4

(6) Subsections 2 and 4 apply with necessary modifications to a trainable retarded child in respect of a separate school zone on such date as may be designated by the Lieutenant Governor in Council or the 1st day of January, 1985, whichever occurs first.

s. 34,
re-enacted

7. Section 34 of the said Act is repealed and the following substituted therefor:

Interpre-
tation

34.—(1) In this section,

(a) “board” includes The Metropolitan Toronto School Board;

(b) “hard to serve pupil” means a pupil who, under this section, is determined to be unable to profit by instruction offered by a board due to a mental handicap or a mental and one or more additional handicaps;

(c) “school” includes a school or class for trainable retarded pupils.

Inability
to profit
by
instruction

(2) Where a principal considers that an exceptional pupil who attends his school is, because of a mental or a mental and one or more additional handicaps, unable to profit by instruction offered by the board, or where the parent or guardian of a pupil considers that the pupil is, because of a mental or a mental and one or more additional handicaps, unable to profit by instruction offered by the board, the principal shall refer the matter to the appropriate supervisory officer who shall refer the matter to the board, and the board shall appoint a committee of three persons consisting of a supervisory officer, a principal and a legally qualified medical practitioner who has expertise in respect of the mental or other handicap of the pupil, none of whom is a person to whom the matter has been previously referred.

Inquiry
by
committee

(3) The committee referred to in subsection 2 shall,

(a) in accordance with subsection 4, inquire into the alleged inability of the pupil to profit by instruction offered by the board;

(b) inquire into the handicap or handicaps of the pupil; and

- (c) determine whether the pupil can profit by instruction offered by the board or determine that the pupil is a hard to serve pupil,

and the committee shall make a written report of its findings and of its determination to the board and to the parent or guardian of the pupil.

(4) The committee shall, for the purposes of its inquiry, study ^{Idem} all existing reports in respect of the pupil, hear the teachers, the parent or guardian of the pupil, where reasonably possible the pupil, and any other person who may be able to contribute information bearing upon the matter and may, with the consent of the parent or guardian of the pupil, and of the pupil where he is an adult and capable of giving such consent, obtain and consider in respect of the pupil, the report of an assessment conducted by a person considered by the committee to be competent for the purpose.

(5) Any costs incurred in respect of an assessment or examination ^{Costs} under this section, or in respect of the obtaining of other evidence required by the committee under subsection 3 or under subsection 6 shall be paid by the board referred to in subsection 2.

(6) Where the parent or guardian of a person in respect of whom ^{Review} a determination has been made under clause c of subsection 3, or the person, where he is an adult,

- (a) believes that by reason of improvement in the condition of the person or other cause the person has become able to profit by instruction; and
- (b) furnishes to a supervisory officer of the board in whose jurisdiction the person resides, evidence or information to establish such belief,

the board shall appoint a committee constituted in accordance with subsection 2 that shall review the determination in respect of the person last made under this section and confirm or alter such determination and for such purpose the committee has the powers and duties of a committee under subsection 3, which subsection applies with necessary modifications to such a review.

(7) Where a committee under subsection 3 or subsection 6 ^{Action to be taken by committee} determines that a pupil is a hard to serve pupil, the committee shall so notify the board and the board shall consider the recommendation and determine that the pupil is a hard to serve pupil or that the pupil is considered to need placement in a special education program, as the case may be, and shall notify the parent or guardian of the pupil in writing of its determination.

Program for
exceptional
pupil

(8) Where the board determines that the pupil is considered to need placement in a special education program, the board shall refer the matter to the appropriate committee established under subparagraph iii of paragraph 5 of subsection 1 of section 10 that shall determine, designate or design an appropriate special education program for the exceptional pupil.

Placement
of hard to
serve
pupil

(9) Where the board determines that the pupil is a hard to serve pupil and the parent or guardian of the pupil agrees with the said determination, the board shall assist the parent or guardian to locate a placement suited to the needs of the pupil and reimburse the parent or guardian for any expenses incurred by the parent or guardian in locating such placement.

Appeal to
Tribunal

(10) Where,

- (a) the board determines that a pupil is a hard to serve pupil and the parent or guardian of the pupil disagrees with such determination and believes that the pupil is able to profit by instruction; or
- (b) the board locates a placement under subsection 9 and the parent or guardian disagrees with the placement,

the parent or guardian of the pupil may, within fifteen days of the receipt of the notice under subsection 7 or any time prior to the implementation of the placement under subsection 9, notify the board in writing of the disagreement and the board shall forthwith refer the matter to the secretary of a Special Education Tribunal established under subsection 1 of section 34a, by forwarding all the documentation outlining the special education programs and special education services that have been provided to the pupil and all existing reports and relevant material in respect of the pupil.

Costs

(11) The board shall reimburse the parent or guardian for any expenses he incurs in connection with the referral to and subsequent hearing by the Tribunal referred to in subsection 10, provided that such expenses are approved by the Tribunal.

Hearing by
Tribunal

(12) The Special Education Tribunal shall consider the referral and, after a hearing and review of the report of the committee referred to in subsection 3 and the determination of the board, shall find that,

- (a) the pupil is a hard to serve pupil;
- (b) the pupil is considered to need placement in a special education program; or

- (c) the proposed placement under subsection 9 is or is not suited to the needs of the pupil,

and so notify in writing the parent or guardian of the pupil, the board and the Minister.

(13) Where the Tribunal finds that the pupil is considered to need placement in a special education program, the board shall provide a special education program and special education services for the pupil and the board shall, within sixty days of receipt of the notice under subsection 12, inform the Minister of the special education services that have been provided for the pupil.

Findings
of
Tribunal

(14) Where, under subsection 12, the Tribunal finds that the pupil is a hard to serve pupil or that the placement under subsection 9 is not suited to the needs of the pupil, the board shall assist the parent or guardian to locate a placement or a new placement, as the case may be, suited to the needs of the pupil and reimburse the parent or guardian for any expenses incurred by the parent or guardian in locating such placement.

Idem

(15) Where, pursuant to an application by the board or by the pupil or on his behalf for judicial review under *The Judicial Review Procedure Act, 1971*, the finding of the Special Education Tribunal is set aside, the determination of the board under subsection 7 shall be referred to a Special Education Tribunal for a new hearing conducted by members of the Tribunal other than those who first heard the matter if the board or the parent or guardian of the pupil, as the case may be, makes application therefor to the secretary of the Special Education Tribunal by registered mail within fifteen days after the date of the order of the court setting aside the finding of the Special Education Tribunal and the provisions of subsections 11, 12, 13 and 14 apply with necessary modifications in respect of a hearing by the Special Education Tribunal under this subsection.

New
Tribunal
provided
1971, c. 48

(16) A placement of a hard to serve pupil under subsection 9 or 14 shall be made in Ontario, except where no placement suited to the needs of the pupil is available in Ontario, a placement may be made outside Ontario.

Placement
in
Ontario

(17) Where a hard to serve pupil is placed under subsection 9 or 14, Ontario shall pay the cost, if any, of such placement.

Cost of
placement

34a. —(1) For the purposes of section 34, the Lieutenant Governor in Council shall establish one or more tribunals known as Special Education Tribunals, provincial or regional, and appoint a secretary of such tribunals.

Establish-
ment of
Special
Education
Tribunal

(2) The Lieutenant Governor in Council may by order,

Procedures
of
Special
Education
Tribunals

- (a) establish the procedures that shall apply; and
- (b) authorize Special Education Tribunals to fix and assess costs,

with respect to matters dealt with by Special Education Tribunals.

Leave
to
appeal

34b.—(1) Where a parent or guardian of a pupil has exhausted all rights of appeal under the regulations in respect of the identification or placement of the pupil as an exceptional pupil and is dissatisfied with the decision in respect of the identification or placement, the parent or guardian may apply to the secretary of a Special Education Tribunal for a hearing for leave to appeal to a regional tribunal established by the Minister under subsection 2 in respect of the identification or placement.

Establishment
of regional
tribunal

(2) Where leave to appeal is granted under subsection 1, a regional tribunal shall be established by the Minister to hear the appeal of the parent or guardian.

Hearing
by Special
Education
Tribunal

(3) Notwithstanding subsection 1, a Special Education Tribunal may with the consent of the parties before it in lieu of granting leave to appeal to a regional tribunal hear and dispose of the appeal of the parent or guardian.

Regulations

(4) The Lieutenant Governor in Council may make regulations governing the provision, establishment, organization and administration of a regional tribunal and regulating and controlling the practice and procedure before such tribunal including the costs of persons before such tribunal.

Decision
final

(5) The decision of a Special Education Tribunal or of a regional tribunal under this section is final and binding upon the parties to any such decision.

Disposition

(6) The tribunal hearing the appeal may,

- (a) dismiss the appeal; or
- (b) grant the appeal and make such order as it considers necessary with respect to the identification or placement of the pupil.

s. 37 (3),
amended

8. Subsection 3 of section 37 of the said Act is amended by adding at the end thereof "until such date as may be designated by the Lieutenant Governor in Council or the 31st day of December, 1984, whichever occurs first".

s. 45 (1),
re-enacted

9. Subsection 1 of section 45 of the said Act is repealed and the following substituted therefor:

Right
of certain
pupils to
attend school
in another
jurisdiction

(1) Where, on the 31st day of December, 1984, or on such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, a trainable retarded pupil was enrolled in a trainable retarded school or class that he had a right to attend and,

- (a) the parent or guardian of the pupil is a supporter of a board other than the board that operates the trainable retarded school or class that the pupil attends; and
- (b) the board of which the pupil is qualified to be a resident pupil, provides instruction for trainable retarded pupils or has entered into an agreement for the provision of such instruction with a board other than the board that on the 31st day of December, 1984, or on such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, operated the trainable retarded school or class in which the pupil was enrolled,

the trainable retarded pupil has, in addition to any other right that he may have under this Act, the right to attend the trainable retarded school or class in which he was enrolled on the 31st day of December, 1984, or such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, until the last school day in June in the year in which he attains the age of twenty-one years, and where such pupil elects to continue to attend the trainable retarded school or class in which he was enrolled, the board of which he is qualified to be a resident pupil shall pay to the divisional board that operates such school or class a fee calculated in accordance with the regulations.

- 10.** Section 69 of the said Act is repealed and the following substituted therefor: s. 69,
re-enacted

69.—(1) In sections 69 to 78,

Interpre-
tation

- (a) “board” means a public school board, a Roman Catholic separate school board, a Protestant separate school board, a board of education other than a board of education for an area municipality in The Municipality of Metropolitan Toronto and includes The Metropolitan Toronto School Board;
- (b) “committee” means an advisory committee on schools for trainable retarded pupils;
- (c) “local association” means a parents’ group that is affiliated with the Ontario Association for the Mentally Retarded and that operates within the area of jurisdiction of the board;

(2) All members of The Metropolitan Toronto School Board are trustees for the purpose of its schools for trainable retarded pupils. Metropolitan
Toronto
School
Board

- 11.** Section 70 of the said Act is repealed and the following substituted therefor: s. 70,
re-enacted

Provision
of
adequate
accommodation

70.—(1) Subject to subsections 2 and 4 and to the regulations, every board shall provide adequate accommodation for the trainable retarded pupils,

- (a) who are exceptional pupils of the board; and
- (b) in respect of whom a placement in a school or class for trainable retarded pupils has been made by a committee established under paragraph 5 of subsection 1 of section 10,

and shall establish and maintain a school or class for such trainable retarded pupils in which special education programs and services shall be provided in accordance with the regulations and in the English language or, where the pupil is enrolled in a school or class established under Part XI, the French language, as the case may be.

Agreement
with other
board

(2) A board may, in lieu of establishing and maintaining a school or class for the trainable retarded pupils for whom it is required to provide accommodation under subsection 1, enter into an agreement with another board to provide for the instruction of such trainable retarded pupils in a school or class for trainable retarded pupils under the jurisdiction of the other board and for the payment of fees in respect of such trainable retarded pupils.

Placement
and review

(3) Where an agreement has been entered into under subsection 2, a committee established under paragraph 5 of subsection 1 of section 10 by the board that provides the instruction shall be responsible for the placement and the review of the placement of trainable retarded pupils who are qualified to be resident pupils of the other board that is party to such agreement.

Application
of subss.
1 and 2

(4) Subsections 1 and 2 apply on the 1st day of January, 1985 or on such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, to a public school board, a Roman Catholic separate school board and a Protestant separate school board.

s. 71,
re-enacted

12. Section 71 of the said Act is repealed and the following substituted therefor:

Attendance
beyond
age 21

71.—(1) A trainable retarded pupil has the right to attend a school or class for trainable retarded pupils established by the board of which he is a resident pupil or provided under an agreement made under subsection 2 of section 70 or to which he is admitted under subsection 2 until the last school day in June in the year in which he attains the age of twenty-one years.

Admission
of other
trainable
retarded
pupils

(2) A board may admit to a school for trainable retarded pupils that it operates a trainable retarded pupil who does not have the

right to attend such school under subsection 1 where the committee of the board established under paragraph 5 of subsection 1 of section 10 recommends the placement of such trainable retarded pupil in the trainable retarded school or class operated by the board, and fees in accordance with the regulations are paid to the board on behalf of such trainable retarded pupil.

- 13.** Subsection 1 of section 72 of the said Act is repealed and the following substituted therefor: s. 72 (1),
re-enacted

(1) A divisional board and The Metropolitan Toronto School Board shall, subject to subsection 1*a*, establish an advisory committee on schools for trainable retarded pupils. Advisory
committee

(1*a*) Where a divisional board establishes a committee under subsection 2 of section 178*a*, it may, Idem

(*a*) discontinue the committee established under subsection 1; or

(*b*) continue the committee established under subsection 1 and appoint one of the members appointed under clause *b* of subsection 2 to the committee established under subsection 2 of section 178*a*.

(1*b*) A board other than a board referred to in subsection 1 may establish an advisory committee on schools for trainable retarded pupils under this section, in which case subsections 2, 3, 4, 5 and 6 and sections 73 and 74 apply with necessary modifications to such advisory committee. Idem

- 14.** Sections 75 and 76 of the said Act are repealed. ss. 75, 76,
repealed

- 15.** Section 77 of the said Act is repealed and the following substituted therefor: s. 77,
re-enacted

77. Where a divisional board provides instruction in a school or class for trainable retarded pupils for a trainable retarded pupil who is not a resident pupil of the board, the divisional board of which the trainable retarded pupil is qualified to be a resident pupil shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations. Fees for
non-resident
pupils of
divisional
boards

- 16.—**(1) Subsection 2 of section 78 of the said Act is amended by striking out “but not in a school division” in the second line. s. 78 (2),
amended

(2) Subsection 3 of the said section 78 is amended by striking out “divisional” in the sixth line and in the seventh line. s. 78 (3),
amended

- 17.** Section 146 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 50, section 21, is further amended by adding thereto the following paragraph: s. 146,
amended

special
education
programs
and
services

- 6a. before the 1st day of September, 1985, provide or enter into an agreement with another board to provide in accordance with the regulations special education programs and special education services for its exceptional pupils in the English language or, where the pupil is enrolled in a school or class established under Part XI, the French language, as the case may be.

s. 147 (1),
par. 38,
re-enacted

- 18.** Paragraph 38 of subsection 1 of section 147 of the said Act is repealed and the following substituted therefor:

programs
in
detention
homes

38. with the approval of the Minister, employ and pay teachers to conduct an education program in a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act and in which the Ministry does not provide an education program and provide instructional supplies and consultative help for the pupils therein and permanent improvements for the classrooms connected therewith.

s. 163 (2),
re-enacted

- 19.** Subsection 2 of section 163 of the said Act is repealed and the following substituted therefor:

Idem

- (2) A board may provide for a person who is qualified to be a resident pupil of the board, transportation to and from the Ontario School for the Blind, an Ontario School for the Deaf, a demonstration school established by or operated under an agreement with the Minister for pupils with severe learning disabilities, a centre classified as a Group K hospital under *The Public Hospitals Act*, a facility designated under *The Developmental Services Act, 1974*, a psychiatric facility designated as such under *The Mental Health Act* and a children's mental health centre approved under *The Children's Mental Health Services Act, 1978*.

R.S.O. 1970,
c. 378

R.S.O. 1970,
c. 269
1978, c. 67

s. 178a,
enacted

- 20.** The said Act is further amended by adding thereto the following section:

SPECIAL EDUCATION ADVISORY COMMITTEE

Interpre-
tation

- 178a.—(1) In this section,

- (a) "board" means a divisional board of education, a county and district combined Roman Catholic separate school board, a board of education in The Municipality of Metropolitan Toronto, The Metropolitan Separate School Board and The Windsor Roman Catholic Separate School Board;

- (b) "committee" means a special education advisory committee;

- (c) “local association” means an association or organization of parents that operates locally within the area of jurisdiction of a board and that is affiliated with an association or organization that is not an association or organization of professional educators but that is incorporated and operates throughout Ontario to further the interests and well-being of one or more groups of exceptional children or adults.

(2) Every board shall, subject to subsection 6, establish a special educational advisory committee that shall consist of, Advisory committee

- (a) one representative from each of the local associations, not to exceed twelve, in the area of jurisdiction of the board, as nominated by the local association and appointed by the board;
- (b) where the board provides a French-language instructional unit as defined in clause *c* of section 254, one or more members who are French-speaking appointed by the board as representative of the French-speaking ratepayers or supporters of the board;
- (c) where the board provides English-language schools or classes under sections 252 and 266, one or more members who are English-speaking appointed by the board as representative of the English-speaking ratepayers or supporters of the board; and
- (d) three members appointed by the board from among its members,

and, in addition to the members referred to in clauses *a*, *b*, *c* and *d*, the board may appoint one or more additional members who are not representative of either a local association or the French-speaking community and are not members of the board or of a committee of the board.

(3) Each of the persons appointed under subsection 2 who are not members of the board shall have the qualifications required for members of the board that appointed them and shall hold office during the term of the members of the board and until the new board is organized. Idem

(4) Section 202 applies with necessary modifications to a member of a committee established under subsection 2. Application of s. 202

(5) One of the members of a committee appointed by a board of education under clause *d* of subsection 2 shall be a member of the board of education elected by separate school electors. Members of committee

Local
associations

(6) A board that establishes a committee under subsection 2 shall select as one of the local associations for the purposes of clause *a* of subsection 2 a local association as defined in clause *c* of subsection 1 of section 69.

Requirements
for advisory
committee

(7) An advisory committee on schools for trainable retarded pupils, established under subsection 1 of section 72, shall satisfy the requirements for a committee under this section where,

- (a) a representative from each of the local associations, not to exceed twelve, and none of which is a local association as defined in clause *c* of subsection 1 of section 69, is added to the advisory committee on schools for trainable retarded pupils;
- (b) the board appoints to the said advisory committee a person as referred to in clause *b* or *c* of subsection 2 where the board provides a French-language instructional unit as therein referred to; and
- (c) in the case of an advisory committee established by a divisional board of education, one of the members appointed under clause *b* of subsection 2 of section 72 is a member of such board elected by separate school electors,

and such advisory committee may make recommendations as provided in subsection 8.

Recommen-
dations

(8) A committee established under subsection 2 may make recommendations to the board in respect of any matter affecting the establishment and development of special education programs and services in respect of exceptional pupils of the board.

Application
of ss. 72 (5, 6),
73 and 74

(9) Subsections 5 and 6 of section 72, section 73 and section 74 apply with necessary modifications to a committee established under subsection 2.

Members
of
committee

(10) A district school area board, a Protestant separate school board, a combined separate school board and a rural separate school board shall appoint a committee consisting of two members appointed by the school board from among its members and two members appointed by the local associations in the area of jurisdiction of the school board, or where no such local association or associations have been established, two members appointed by the school board who are not members of such board.

Selection
by board

(11) For the purposes of subsections 2 and 7, where there are more than twelve local associations in the area of jurisdiction of

the board, the board shall select the twelve local associations that shall be represented.

- 21.** Subsection 3 of section 205 of the said Act is amended by inserting after "1" in the third line "for" and by adding thereto the following clauses: s. 205 (3),
amended

- (a) where there is no designation by the Lieutenant Governor in Council under clause *b*, the years 1981, 1982, 1983 and 1984 and commencing with the year 1985 and for each subsequent year thereafter such cost of operation shall be included in the estimates for public school purposes under subsection 1; or
- (b) where there is a designation by the Lieutenant Governor in Council, the year 1981 and such year or years as may be designated by the Lieutenant Governor in Council and commencing with the year designated by the Lieutenant Governor in Council and for each subsequent year thereafter such cost of operation shall be included in the estimates for public school purposes under subsection 1.

- 22.** The said Act is further amended by adding thereto the following section: s. 271a,
enacted

PART XI-A

TRANSITIONAL PROVISIONS

271a.—(1) Where the Lieutenant Governor in Council designates a date for the purposes of subsections 5 and 6 of section 32, subsection 3 of section 37, subsection 1 of section 45 and subsection 3 of section 205 or any of them, such designation may have general application or may relate to such board or boards as may be set out in the designation. Date and
scope of
designation

(2) Where the Lieutenant Governor in Council designates a date for the purposes of subsection 5 of section 32 and subsection 3 of section 205 in respect of a divisional board, subsection 5 of section 53 ceases to apply to such divisional board. Application
of s. 53 (5)

(3) Effective the date designated by the Lieutenant Governor in Council for the purposes of subsection 3 of section 37, or the 31st day of December, 1984, whichever occurs first, in relation to The Metropolitan Separate School Board and The Metropolitan Toronto School Board, subsection 4 of section 37 ceases to operate and the cost of operation of schools for trainable retarded children operated by The Metropolitan Toronto School Board shall be included in the estimates of such board for public elementary school purposes. Application
and
operation
of s. 37 (4)

Commence-
ment

23. This Act comes into force on the day it receives Royal Assent.

Short title

24. The short title of this Act is *The Education Amendment Act, 1980*.



BILL 82

An Act to amend
The Education Act, 1974

1st Reading

May 23rd, 1980

2nd Reading

June 17th, 1980

3rd Reading

December 2nd, 1980

THE HON. B. STEPHENSON
Minister of Education and
Minister of Colleges and Universities

BILL 83

Private Member's Bill

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Legal and Ministry

An Act to amend The Ontario Human Rights Code

MR. DAVISON



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of this Bill is to make sexual harassment in the workplace a breach of human rights, and to provide a remedy for sexual harassment in the workplace.

BILL 83

1980

An Act to amend The Ontario Human Rights Code

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.** Section 4 of *The Ontario Human Rights Code*, being chapter 318 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1972, chapter 119, section 5 and amended by 1974, chapter 73, sections 2 and 3, is further amended by adding thereto the following subsection:

Section 4,
amended

(1a) No person shall,

Sexual
harassment

- (a) refuse or threaten to refuse to employ any person;
- (b) dismiss or threaten to dismiss an employee;
- (c) discipline or threaten to discipline an employee;
- (d) suspend or threaten to suspend an employee;
- (e) refuse or threaten to refuse to train, promote or transfer an employee;
- (f) impose or threaten to impose any penalty upon an employee;
- (g) intimidate or coerce an employee,

because of that person's rejection of sexual advances or their refusal to consent to sexual contact or sexual intercourse.

- 2.** This Act comes into force on the day it receives Royal Assent.
- 3.** The short title of this Act is *The Ontario Human Rights Code Amendment Act, 1980*.

Commence-
ment

Short title

An Act to amend
The Ontario Human Rights Code

1st Reading

May 23rd, 1980

2nd Reading

3rd Reading

MR. DAVISON

(Private Member's Bill)

355

BILL 84

Private Member's Bill

Published

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Legislative Assembly

An Act to amend The Municipal Act

MR. DAVISON



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to authorize municipalities to provide health insurance benefits to retired employees.

BILL 84

1980

An Act to amend The Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *a* of paragraph 66 of section 352 of *The Municipal Act*, being chapter 284 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 352,
par. 66(a),
re-enacted

(a) In this paragraph, “employee” means an employee as defined in paragraph 64 and a retired employee.

2. Clause *a* of paragraph 67 of section 352 of the said Act is repealed and the following substituted therefor: s. 352,
par. 67(a),
re-enacted

(a) In this paragraph, “employee” means an employee as defined in paragraph 64 and a retired employee.

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment
4. The short title of this Act is *The Municipal Amendment Act, 1980*. Short title

An Act to amend The Municipal Act

1st Reading

May 23rd, 1980

2nd Reading

3rd Reading

MR. DAVISON

(Private Member's Bill)

BILL 85

Government Bill

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Legislative Assembly

An Act to revise The Limited Partnerships Act

THE HON. FRANK DREA
Minister of Consumer and Commercial Relations



EXPLANATORY NOTE

The purpose of the Bill is to revise the law governing limited partnerships in Ontario. This revision follows similar revisions in several other jurisdictions of Canada, including Alberta and Saskatchewan. Among the significant features of the Bill are the following:

1. A limited partnership is formed when a declaration is filed in accordance with the Act. Any changes in the composition of the limited partnership must be disclosed by filing a declaration of change with the Registrar of Partnerships.
2. The Bill limits the circumstances in which a limited partner loses his limited liability and becomes liable as a general partner. Section 12 of the existing *Limited Partnerships Act* states that a limited partner becomes liable as a general partner whenever any change takes place in the partnership name, the names of the partners or in the nature or capital of the business. The new Act discontinues this provision.
3. Limited partnerships that are organized in a jurisdiction outside Ontario and that carry on business in Ontario are required to file a declaration with the Registrar of Partnerships.
4. *The Limited Partnerships Act, 1980*, when it is proclaimed in force, will apply to all existing limited partnerships in Ontario. Limited partnerships that have been organized outside Ontario are permitted sixty days after the commencement of the Act to comply with the registration requirements.

BILL 85

1980

An Act to revise The Limited Partnerships Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “business” includes every trade, occupation and profession;
- (b) “extra-provincial limited partnership” means a limited partnership organized under the laws of a jurisdiction other than Ontario;
- (c) “prescribed” means prescribed in the regulations; and
- (d) “Registrar” means the Registrar of Partnerships.

2.—(1) A limited partnership may, subject to this Act, be formed to carry on any business that a partnership without limited partners may carry on.

Limited
partnership

(2) A limited partnership shall consist of one or more persons who are general partners and one or more persons who are limited partners.

Whom to
consist

3.—(1) A limited partnership is formed when a declaration is filed with the Registrar in accordance with this Act.

Formation

(2) A declaration shall be signed by all of the partners desiring to form a limited partnership and shall state,

Declaration

- (a) the firm name under which the limited partnership is to be conducted;
- (b) the general nature of the business;
- (c) the names of the partners, general and limited partners being respectively designated and for each partner,

- (i) the surname of the partner,
- (ii) the first or other given name by which the partner is commonly known,
- (iii) the first letters of the other given names, if any, of the partner, and
- (iv) the residence address or address for service of the partner, including the street name and number, if any;
- (d) the value of money and other property contributed or to be contributed by each limited partner;
- (e) the principal place of business in Ontario of the limited partnership and the address, giving street name and number, if any, where the principal place of business is located;
- (f) such other information as is required by the regulations made under this Act.

Expiry of
declaration

(3) Every declaration filed under subsection 1, including a declaration filed by an extra-provincial limited partnership, expires five years after its date of filing unless the declaration is cancelled by filing a declaration of dissolution or the declaration is replaced by filing a new declaration before the expiry date.

Subsequent
filing of
new
declaration

(4) A limited partnership is not dissolved if a declaration expires, but an additional fee in a prescribed amount is payable for the subsequent filing of a new declaration.

Partnerships
Registration
Act

R.S.O. 1970,
c.340

(5) Where a declaration is filed under this Act, a declaration is not required to be filed under *The Partnerships Registration Act*.

Filing and
recording

(6) The provisions of *The Partnerships Registration Act*, except sections 8a and 15a, and the regulations thereunder, applying to the filing and recording of declarations under that Act apply with necessary modifications to declarations under this Act.

General and
limited
partners

4.—(1) A person may be a general partner and a limited partner at the same time in the same limited partnership.

Idem

(2) A person who is at the same time a general partner and a limited partner in the same limited partnership has the rights and powers and is subject to the restrictions and liabilities of a general partner except that in respect of his contribution as a limited partner he has the same rights against the other partners as a limited partner.

5.—(1) The surname or a distinctive part of the corporate name of a limited partner shall not appear in the firm name of the limited partnership unless it is also the surname or a distinctive part of the corporate name of one of the general partners.

Restriction
in name of
partnership

(2) Where the surname or a distinctive part of the corporate name of a limited partner appears in the firm name contrary to subsection 1, the limited partner is liable as a general partner to any creditor of the limited partnership who has extended credit without actual knowledge that the limited partner is not a general partner.

Liability
if limited
partner

(3) Notwithstanding section 10 of *The Business Corporations Act*, the word “Limited” may be used in conjunction with the word “Partnership” in the firm name.

Use of term
limited
R.S.O. 1970,
c. 53

6.—(1) A limited partner may contribute money and other property to the limited partnership, but not services.

Contribution
of limited
partner

(2) A limited partner’s interest in the limited partnership is personal property.

Personal
property

7. A general partner in a limited partnership has all the rights and powers and is subject to all the restrictions and liabilities of a partner in a partnership without limited partners except that, without the written consent to or ratification of the specific act by all the limited partners, a general partner has no authority to,

Rights of
general
partners

- (a) do any act in contravention of the partnership agreement;
- (b) do any act which makes it impossible to carry on the ordinary business of the limited partnership;
- (c) consent to a judgment against the limited partnership;
- (d) possess limited partnership property, or assign any rights in specific partnership property, for other than a partnership purpose;
- (e) admit a person as a general partner;
- (f) admit a person as a limited partner, unless the right to do so is given in the partnership agreement; or
- (g) continue the business of the limited partnership on the death, retirement or mental incompetence of a general partner or dissolution of a corporate general partner, unless the right to do so is given in the partnership agreement.

Liability of
limited
partner

8. Subject to this Act, a limited partner is not liable for the obligations of the limited partnership except in respect of the value of money and other property he contributes or agrees to contribute to the limited partnership, as stated in the declaration.

Rights of
limited
partner

9. A limited partner has the same right as a general partner,

- (a) to inspect and make copies of or take extracts from the limited partnership books at all times;
- (b) to be given, on demand, true and full information concerning all matters affecting the limited partnership, and to be given a complete and formal account of the partnership affairs; and
- (c) to obtain dissolution of the limited partnership by court order.

Share of
profits

10.—(1) A limited partner has, subject to this Act, the right,

- (a) to a share of the profits or other compensation by way of income; and
- (b) to have his contribution to the limited partnership returned.

When profit
may not be
paid

(2) No payment of a share of the profits or other compensation by way of income shall be made to a limited partner from the assets of the limited partnership or of a general partner if the payment would reduce the assets of the limited partnership to an amount insufficient to discharge the liabilities of the limited partnership to persons who are not general or limited partners.

Business
dealings
by limited
partner with
partnership

11.—(1) A limited partner may loan money to and transact other business with the limited partnership and, unless he is also a general partner, may receive on account of resulting claims against the limited partnership with general creditors a prorated share of the assets, but no limited partner shall, in respect of any such claim,

- (a) receive or hold as collateral security any of the limited partnership property; or
- (b) receive from a general partner or the limited partnership any payment, conveyance or release from liability if at the time the assets of the partnership are not sufficient to discharge partnership liabilities to persons who are not general or limited partners.

Rights of
limited
partner

(2) A limited partner may from time to time,

- (a) examine into the state and progress of the limited partnership business and may advise as to its management;
- (b) act as a contractor for or an agent or employee of the limited partnership or of a general partner; or
- (c) act as a surety for the limited partnership.

12.—(1) A limited partner is not liable as a general partner unless, in addition to exercising his rights and powers as a limited partner, he takes part in the control of the business. Limited partner in control of business

(2) For the purposes of subsection 1, a limited partner shall not be presumed to be taking part in the control of the business by reason only that the limited partner exercises rights and powers in addition to the rights and powers conferred upon the limited partner by this Act. Additional rights and powers

13.—(1) Subject to subsection 2, limited partners, in relation to one another, share in the limited partnership assets, Limited partners' rights as between themselves

- (a) for the return of contributions; and
- (b) for profits or other compensation by way of income on account of their contributions,

in proportion to the respective amounts of money and other property actually contributed by the limited partners to the limited partnership.

(2) Where there are several limited partners, the partners may agree that one or more of the limited partners is to have priority over other limited partners, Priority agreement

- (a) as to the return of contributions;
- (b) as to profits or other compensation by way of income; or
- (c) as to any other matter,

but the terms of this agreement shall be set out in the partnership agreement.

(3) Where the partnership agreement does not contain an agreement referred to in subsection 2, the shares of the limited partners in the partnership assets shall be determined in accordance with subsection 1. Idem

Return of
limited
partner's
contribution

14.—(1) A limited partner has the right to demand and receive the return of his contribution,

- (a) upon the dissolution of the limited partnership;
- (b) when the time specified in the partnership agreement for the return of the contribution occurs;
- (c) after he has given six months notice in writing to all other partners, if no time is specified in the partnership agreement for the return of the contribution or for the dissolution of the limited partnership; or
- (d) when all the partners consent to the return of the contribution.

Idem

(2) Notwithstanding subsection 1, a limited partner is not entitled to receive any part of his contribution out of the limited partnership assets or from a general partner until,

- (a) all liabilities of the limited partnership, except liabilities to general partners and to limited partners on account of their contributions, have been paid or there remains sufficient limited partnership assets to pay them; and
- (b) the partnership agreement is terminated or so amended, if necessary, to set forth the withdrawal or reduction of the contribution.

Idem

(3) A limited partner has, irrespective of the nature of his contribution, only the right to demand and receive money in return therefor, unless,

- (a) the partnership agreement provides otherwise; or
- (b) all the partners consent to some other manner of returning the contribution.

Dissolution

(4) A limited partner is entitled to have the limited partnership dissolved and its affairs wound up where,

- (a) the limited partner is entitled to the return of his contribution but, upon demand, the contribution is not returned to him; or
- (b) the other liabilities of the limited partnership have not been paid or the limited partnership assets are insufficient for their payment as required by clause *a* of subsection 2 and the limited partner seeking dissolution would otherwise be entitled to the return of his contribution.

15.—(1) A limited partner is liable to the limited partnership for the difference, if any, between the value of money or other property actually contributed by him to the limited partnership and the value of money or other property stated in the declaration as being contributed or to be contributed by him to the limited partnership.

Limited partner's liability to partnership

(2) A limited partner holds as trustee for the limited partnership,

Limited partner as trustee

(a) specific property stated in the partnership agreement as contributed by him, but which has not in fact been contributed or which has been returned contrary to this Act; and

(b) money or other property paid or conveyed to him on account of his contribution contrary to this Act.

(3) Where a limited partner has received the return of all or part of his contribution, he is nevertheless liable to the limited partnership or, where the limited partnership is dissolved, to its creditors for any amount, not in excess of the amount returned with interest, necessary to discharge the liabilities of the limited partnership to all creditors who extended credit or whose claims otherwise arose before the return of the contribution.

Idem

16. After the formation of the limited partnership, additional limited partners may be admitted by amendment of the declaration in accordance with section 18.

Admission of additional limited partners

17.—(1) A limited partner's interest is assignable.

Interest assignable

(2) A substituted limited partner is a person admitted to all the rights and powers of a limited partner who has died or who has assigned his interest in the limited partnership.

Limited partner

(3) An assignee who is not a substituted limited partner has no right,

Rights of assignee

(a) to inspect the limited partnership books;

(b) to be given any information about matters affecting the limited partnership or to be given an account of the partnership affairs,

but is entitled only to receive the share of the profits or other compensation by way of income or the return of the contribution to which the assignor would otherwise be entitled.

(4) An assignee may become a substituted limited partner,

Manner of becoming a substituted limited partner

- (a) if all the partners, except the assignor, consent in writing thereto; or
- (b) if the assignor, being so authorized by the partnership agreement, constitutes the assignee a substituted limited partner.

Idem (5) An assignee, who is otherwise entitled to become a substituted limited partner, becomes a substituted limited partner when the declaration is amended in accordance with section 18.

Rights, liabilities of substituted limited partner (6) A substituted limited partner has all the rights and powers and is subject to all the restrictions and liabilities of his assignor, except any liability of which he did not have notice at the time he became a limited partner and which could not be ascertained from the partnership agreement or the declaration.

Liability of assignor (7) The substitution of an assignee as a limited partner does not release the assignor from liability under section 15 or 27.

Change of firm name **18.—**(1) Where the firm name of a limited partnership is to be changed, a new declaration shall be filed with the Registrar under subsection 2 of section 3.

Declaration of change (2) A declaration of change shall be filed with the Registrar for every change in information, other than a change in the firm name, required to be stated in the declaration under subsection 2 of section 3.

Signing of declaration (3) A declaration of change shall be signed by at least one of the general partners.

Idem (4) A declaration of change for information required by clauses *c* and *d* of subsection 2 of section 3 shall also be signed by the limited partner or substituted limited partner who is the subject of the change.

Change not effective (5) For the purposes of this Act, a change referred to in subsection 2 does not take effect until a declaration of change is filed with the Registrar.

Expiry (6) A declaration of change expires upon the expiry, replacement or cancellation of the declaration amended by the declaration of change.

Failure to file declaration of change **19.—**(1) No limited partnership in respect of which a new declaration or a declaration of change has not been filed as required by section 18 and no member thereof is capable of maintaining any action or other proceeding in any court in Ontario in respect of any contract or tort made or arising in connection with the business carried on by the limited partnership.

(2) Where a new declaration or declaration of change is filed after an action or proceeding is commenced by the limited partnership or member thereof, the action or proceeding may be continued as if the declaration had been filed in accordance with this Act prior to the institution of the action or proceeding. Continuation
of action

20. The retirement, death or mental incompetence of a general partner or dissolution of a corporate general partner dissolves a limited partnership unless the business is continued by the remaining general partners, Dissolution
of limited
partnership

(a) pursuant to a right to do so contained in the partnership agreement; and

(b) with the consent of all the remaining partners.

21.—(1) The executor or administrator of the estate of a limited partner has, Death of
limited
partner

(a) all the rights and powers of a limited partner for the purpose of settling the estate of the limited partner; and

(b) whatever power the limited partner had under the partnership agreement to constitute his assignee a substituted limited partner.

(2) The estate of a limited partner is liable for all the liabilities of the limited partner as a limited partner. Liability

22.—(1) A declaration of dissolution shall be filed with the Registrar when, Declaration
of
dissolution

(a) the limited partnership is dissolved; or

(b) all of the limited partners cease to be limited partners.

(2) The declaration of dissolution shall be signed by at least one of the general partners. Idem

(3) When the declaration of dissolution is filed, the declaration filed under subsection 2 of section 3 is cancelled. Declaration
cancelled

23. In settling accounts after the dissolution of a limited partnership, the liabilities of the limited partnership to creditors, except to limited partners on account of their contributions and to general partners, shall be paid first, and then, unless the partnership agreement or a subsequent agreement provides otherwise, shall be paid in the following order: Settling
accounts
on
dissolution

1. to limited partners in respect of their share of the profits and other compensation by way of income on account of their contributions;
2. to limited partners in respect of their contributions;
3. to general partners other than for capital and profits;
4. to general partners in respect of profits;
5. to general partners in respect of capital.

Declaration

24.—(1) No extra-provincial limited partnership shall carry on business in Ontario unless it has filed a declaration with the Registrar that sets forth the information required by subsection 2 of section 3 and states the jurisdiction in which the extra-provincial limited partnership is organized.

Carry on business

(2) For the purposes of this section, an extra-provincial limited partnership carries on business in Ontario if,

- (a) it solicits business in Ontario;
- (b) its name is listed in a telephone directory for any part of Ontario;
- (c) its name is included in any advertisement in which an address in Ontario is given for the limited partnership;
- (d) it has a resident agent or representative or a warehouse, office or place of business in Ontario;
- (e) it owns real property situate in Ontario;
- (f) it effects a distribution of securities in Ontario by way of a prospectus or offering memorandum in compliance with *The Securities Act, 1978* and the regulations made thereunder; or
- (g) it otherwise carries on business in Ontario.

1978, c. 47

Signing of declaration

(3) The declaration filed under subsection 1 shall be signed by all of the partners.

Power of attorney

(4) When a declaration is filed under subsection 1, the extra-provincial limited partnership shall file with the Registrar a power of attorney in the prescribed form appointing a person resident in Ontario or a corporation having its head or registered office in Ontario to be the attorney and representative in Ontario of the extra-provincial limited partnership.

(5) Where there is a change in the firm name of an extra-provincial limited partnership, a new declaration and power of attorney shall be filed with the Registrar under this section.

Change of
firm name

(6) Where there is a change in the name or address of the attorney and representative in Ontario of an extra-provincial limited partnership, a new power of attorney shall be filed under this section.

Change in
name and
address of
attorney

(7) An extra-provincial limited partnership shall file a declaration of change with the Registrar for every change in the information, other than a change in the firm name, contained in the declaration filed under subsection 1 and the declaration shall be signed in the manner described in section 18.

Declaration
of change

(8) An extra-provincial limited partnership may cancel the declaration and the power of attorney by filing with the Registrar a declaration of withdrawal signed by at least one of the general partners.

Declaration
of
withdrawal

25.—(1) A limited partner of an extra-provincial limited partnership is not liable in Ontario as a general partner of the extra-provincial limited partnership by reason only that it transacts business in Ontario without filing the declaration and power of attorney required by this Act.

Liability of
limited
partner

(2) The laws of the jurisdiction under which an extra-provincial limited partnership is organized govern its organization and internal affairs and the limited liability of its limited partners.

Laws
applicable
to extra-
provincial
limited
partnerships

26.—(1) No extra-provincial limited partnership in respect of which a declaration or power of attorney has not been filed as required by this Act and no member thereof is capable of maintaining any action or other proceeding in any court in Ontario in respect of any contract or tort made or arising in connection with the business carried on by the extra-provincial limited partnership.

Failure
to file
declaration,
power of
attorney

(2) When a declaration and power of attorney are filed in accordance with this Act, an action or proceeding referred to in subsection 1 may be continued as if the declaration and power of attorney had been filed in accordance with this Act prior to the institution of the action or proceeding.

Continuation
of action

27. Where a declaration contains a false or misleading statement, any person suffering loss as a result of relying upon the statement may hold liable,

Effect of
false
statement
in
declaration

- (a) every partner who knew when he signed the declaration that the statement was false or misleading;

- (b) every general partner who became aware after he signed the declaration that the statement was false or misleading and failed within a reasonable time to file a declaration of change; and
- (c) every limited partner who became aware after he signed the declaration that the statement was false or misleading and failed within a reasonable time to take steps to cause a declaration of change to be filed.

Liability of person mistakenly believing he is a limited partner

28. A person who contributes to the capital of a business carried on by a person or partnership erroneously believing that he has become a limited partner in a limited partnership,

- (a) is not, by reason only of his exercising the rights of a limited partner, a general partner with the person or in the partnership carrying on the business; and
- (b) is not bound by the obligations of the person or partnership carrying on the business,

if, upon ascertaining the fact that he is not a limited partner, he promptly,

- (c) renounces his interest in the profits or other compensation by way of income from the business; or
- (d) takes steps to cause a declaration to be filed with the Registrar showing the person to be a limited partner.

Authority to sign

29.—(1) A general or limited partner may give written authority to any other person to sign on his behalf any document referred to in this Act.

Idem

(2) A person who signs a document to be filed with the Registrar under an authority referred to in subsection 1 shall indicate in the document that he signs on behalf of a general or limited partner.

Access to documents

30.—(1) Every partnership shall keep at its principal place of business in Ontario,

- (a) a copy of the partnership agreement;
- (b) a copy of the declaration and a copy of each declaration of change amending the declaration;
- (c) a copy of any court order made under section 31;
- (d) a copy of any written authority given under subsection 1 of section 29; and

- (e) in the case of an extra-provincial limited partnership, a copy of the power of attorney filed with the Registrar.

(2) Where an extra-provincial limited partnership does not have a principal place of business in Ontario, the documents referred to in subsection 1 shall be kept by the attorney and representative in Ontario of the extra-provincial limited partnership at the address stated in the power of attorney filed under subsection 4 of section 24. Where no principal place of business

(3) Any partner may inspect any of the documents referred to in subsection 1 during the normal business hours of the partnership or the partnership's attorney and representative. Right to inspect

(4) Any person who has a business relationship with the partnership may inspect any of the documents referred to in clauses *b*, *c*, *d* and *e* of subsection 1 during the normal business hours of the partnership or the partnership's attorney and representative. Idem

31.—(1) In this section, “Court” means the Supreme Court of Ontario. Interpretation

(2) Where a person who is required by this Act to sign or permit inspection of a document refuses to do so, a person who is aggrieved by the refusal may apply to the Court for an order directing the person to comply with the provisions of this Act and upon such application, the Court may make such order or any other order that the Court considers appropriate in the circumstances. Order for compliance

(3) An application may be made under subsection 2 notwithstanding the imposition of a penalty in respect of the refusal and in addition to any other rights the applicant may have at law, Application

32.—(1) Every person who, Offences

(a) contravenes any provision of this Act or the regulations; or

(b) makes a statement in any document, material, evidence or information submitted or required by or for the purposes of this Act that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or, if such person is a corporation, to a fine of not more than \$20,000.

False
statements
wilful

(2) No person is guilty of an offence referred to in clause *b* of subsection 1 if he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading.

Liability of
directors
and
officers

(3) Where a corporation is guilty of an offence under subsection 1, every director or officer of such corporation, and where the corporation is an extra-provincial corporation, every person acting as its representative in Ontario, who authorized, permitted or acquiesced in such an offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Regulations

33. The Lieutenant Governor in Council may make regulations,

- (a) prescribing fees for the purposes of this Act;
- (b) respecting additional information to be included in a declaration filed under this Act;
- (c) prescribing forms and providing for their use.

Transition

R.S.O. 1970,
c. 247

34.—(1) A limited partnership in existence on the day before the day this Act comes into force is continued under this Act and a certificate filed by such a limited partnership under *The Limited Partnerships Act* shall be deemed to be a declaration filed under subsection 2 of section 3 of this Act, but such declaration expires on the date shown on the certificate.

Idem

(2) Notwithstanding section 24, an extra-provincial limited partnership may carry on business in Ontario without filing a declaration and power of attorney for sixty days after the day this Act comes into force.

Repeals

35. *The Limited Partnerships Act*, being chapter 247 of the Revised Statutes of Ontario, 1970 and *The Limited Partnerships Amendment Act*, 1973, being chapter 26, are repealed.

Commence-
ment

36. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

37. The short title of this Act is *The Limited Partnerships Act*, 1980.

An Act to revise
The Limited Partnerships Act

1st Reading

May 27th, 1980

2nd Reading

3rd Reading

THE HON. FRANK DREA
Minister of Consumer and Commercial
Relations

(*Government Bill*)

BILL 85

Government Bill

4TH SESSION, 31ST LEGISLATURE, ¹ONTARIO
29 ELIZABETH II, 1980

Legislative Assembly

An Act to revise The Limited Partnerships Act

THE HON. FRANK DREA
Minister of Consumer and Commercial Relations

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

The purpose of the Bill is to revise the law governing limited partnerships in Ontario. This revision follows similar revisions in several other jurisdictions of Canada, including Alberta and Saskatchewan. Among the significant features of the Bill are the following:

1. A limited partnership is formed when a declaration is filed in accordance with the Act. Any changes in the composition of the limited partnership must be disclosed by filing a declaration of change with the Registrar of Partnerships.
2. The Bill limits the circumstances in which a limited partner loses his limited liability and becomes liable as a general partner. Section 12 of the existing *Limited Partnerships Act* states that a limited partner becomes liable as a general partner whenever any change takes place in the partnership name, the names of the partners or in the nature or capital of the business. The new Act discontinues this provision.
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- (a) "business" includes every trade, occupation and profession;
- (b) "extra-provincial limited partnership" means a limited partnership organized under the laws of a jurisdiction other than Ontario;
- (c) "person" includes an individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, and a natural person in his capacity as trustee, executor, administrator or other legal representative;
- (d) "prescribed" means prescribed in the regulations; and
- (e) "Registrar" means the Registrar of Partnerships.

2.—(1) A limited partnership may, subject to this Act, be formed to carry on any business that a partnership without limited partners may carry on.

Limited
partnership

(2) A limited partnership shall consist of one or more persons who are general partners and one or more persons who are limited partners.

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- (b) the general nature of the business;
- (c) the names of the partners, general and limited partners being respectively designated and for each partner,
 - (i) the surname of the partner,
 - (ii) the first or other given name by which the partner is commonly known,
 - (iii) the first letters of the other given names, if any, of the partner, and
 - (iv) the residence address or address for service of the partner, including the street name and number, if any;
- (d) the value of money and other property contributed or to be contributed by each limited partner;
- (e) the principal place of business in Ontario of the limited partnership and the address, giving street name and number, if any, where the principal place of business is located;
- (f) such other information as is required by the regulations made under this Act.

Expiry of
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(3) Every declaration filed under subsection 1, including a declaration filed by an extra-provincial limited partnership, expires five years after its date of filing unless the declaration is cancelled by filing a declaration of dissolution or the declaration is replaced by filing a new declaration before the expiry date.

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(6) The provisions of *The Partnerships Registration Act*, except sections 8a and 15a, and the regulations thereunder, applying to the filing and recording of declarations under that Act apply with necessary modifications to declarations under this Act.

4.—(1) A person may be a general partner and a limited partner at the same time in the same limited partnership. General and limited partners

(2) A person who is at the same time a general partner and a limited partner in the same limited partnership has the rights and powers and is subject to the restrictions and liabilities of a general partner except that in respect of his contribution as a limited partner he has the same rights against the other partners as a limited partner. Idem

5.—(1) The surname or a distinctive part of the corporate name of a limited partner shall not appear in the firm name of the limited partnership unless it is also the surname or a distinctive part of the corporate name of one of the general partners. Restriction in name of partnership

(2) Where the surname or a distinctive part of the corporate name of a limited partner appears in the firm name contrary to subsection 1, the limited partner is liable as a general partner to any creditor of the limited partnership who has extended credit without actual knowledge that the limited partner is not a general partner. Liability if limited partner



(3) Notwithstanding any Act, the word “Limited” may be used in the firm name but only in the expression “Limited Partnership”. Use of term limited



6.—(1) A limited partner may contribute money and other property to the limited partnership, but not services. Contribution of limited partner

(2) A limited partner’s interest in the limited partnership is personal property. Personal property

7. A general partner in a limited partnership has all the rights and powers and is subject to all the restrictions and liabilities of a partner in a partnership without limited partners except that, without the written consent to or ratification of the specific act by all the limited partners, a general partner has no authority to, Rights of general partners

- (a) do any act in contravention of the partnership agreement;
- (b) do any act which makes it impossible to carry on the ordinary business of the limited partnership;
- (c) consent to a judgment against the limited partnership;
- (d) possess limited partnership property, or assign any rights in specific partnership property, for other than a partnership purpose;

- (e) admit a person as a general partner;
- (f) admit a person as a limited partner, unless the right to do so is given in the partnership agreement; or
- (g) continue the business of the limited partnership on the death, retirement or mental incompetence of a general partner or dissolution of a corporate general partner, unless the right to do so is given in the partnership agreement.

Liability of
limited
partner

8. Subject to this Act, a limited partner is not liable for the obligations of the limited partnership except in respect of the value of money and other property he contributes or agrees to contribute to the limited partnership, as stated in the declaration.

Rights of
limited
partner

9. A limited partner has the same right as a general partner,

- (a) to inspect and make copies of or take extracts from the limited partnership books at all times;
- (b) to be given, on demand, true and full information concerning all matters affecting the limited partnership, and to be given a complete and formal account of the partnership affairs; and
- (c) to obtain dissolution of the limited partnership by court order.

Share of
profits

10.—(1) A limited partner has, subject to this Act, the right,

- (a) to a share of the profits or other compensation by way of income; and
- (b) to have his contribution to the limited partnership returned.

When profit
may not be
paid

(2) No payment of a share of the profits or other compensation by way of income shall be made to a limited partner from the assets of the limited partnership or of a general partner if the payment would reduce the assets of the limited partnership to an amount insufficient to discharge the liabilities of the limited partnership to persons who are not general or limited partners.

Business
dealings
by limited
partner with
partnership

11.—(1) A limited partner may loan money to and transact other business with the limited partnership and, unless he is also a general partner, may receive on account of resulting claims against the limited partnership with general creditors a prorated share of the assets, but no limited partner shall, in respect of any such claim,

- (a) receive or hold as collateral security any of the limited partnership property; or
- (b) receive from a general partner or the limited partnership any payment, conveyance or release from liability if at the time the assets of the partnership are not sufficient to discharge partnership liabilities to persons who are not general or limited partners.

(2) A limited partner may from time to time,

Rights of
limited
partner

- (a) examine into the state and progress of the limited partnership business and may advise as to its management;
- (b) act as a contractor for or an agent or employee of the limited partnership or of a general partner; or
- (c) act as a surety for the limited partnership.

12.—(1) A limited partner is not liable as a general partner unless, in addition to exercising his rights and powers as a limited partner, he takes part in the control of the business.

Limited
partner in
control of
business

(2) For the purposes of subsection 1, a limited partner shall not be presumed to be taking part in the control of the business by reason only that the limited partner exercises rights and powers in addition to the rights and powers conferred upon the limited partner by this Act.

Additional
rights and
powers

13.—(1) Subject to subsection 2, limited partners, in relation to one another, share in the limited partnership assets,

Limited
partners'
rights as
between
themselves

- (a) for the return of contributions; and
- (b) for profits or other compensation by way of income on account of their contributions,

in proportion to the respective amounts of money and other property actually contributed by the limited partners to the limited partnership.

(2) Where there are several limited partners, the partners may agree that one or more of the limited partners is to have priority over other limited partners,

Priority
agreement

- (a) as to the return of contributions;

(b) as to profits or other compensation by way of income; or

(c) as to any other matter,

but the terms of this agreement shall be set out in the partnership agreement.

Idem

(3) Where the partnership agreement does not contain an agreement referred to in subsection 2, the shares of the limited partners in the partnership assets shall be determined in accordance with subsection 1.

Return of
limited
partner's
contribution

14.—(1) A limited partner has the right to demand and receive the return of his contribution,

(a) upon the dissolution of the limited partnership;

(b) when the time specified in the partnership agreement for the return of the contribution occurs;

(c) after he has given six months notice in writing to all other partners, if no time is specified in the partnership agreement for the return of the contribution or for the dissolution of the limited partnership; or

(d) when all the partners consent to the return of the contribution.

Idem

(2) Notwithstanding subsection 1, a limited partner is not entitled to receive any part of his contribution out of the limited partnership assets or from a general partner until,

(a) all liabilities of the limited partnership, except liabilities to general partners and to limited partners on account of their contributions, have been paid or there remains sufficient limited partnership assets to pay them; and

(b) the partnership agreement is terminated or so amended, if necessary, to set forth the withdrawal or reduction of the contribution.

Idem

(3) A limited partner has, irrespective of the nature of his contribution, only the right to demand and receive money in return therefor, unless,

(a) the partnership agreement provides otherwise; or

(b) all the partners consent to some other manner of returning the contribution.

(4) A limited partner is entitled to have the limited partnership dissolved and its affairs wound up where, Dissolution

- (a) the limited partner is entitled to the return of his contribution but, upon demand, the contribution is not returned to him; or
- (b) the other liabilities of the limited partnership have not been paid or the limited partnership assets are insufficient for their payment as required by clause *a* of subsection 2 and the limited partner seeking dissolution would otherwise be entitled to the return of his contribution.

15.—(1) A limited partner is liable to the limited partnership for the difference, if any, between the value of money or other property actually contributed by him to the limited partnership and the value of money or other property stated in the declaration as being contributed or to be contributed by him to the limited partnership. Limited partner's liability to partnership

(2) A limited partner holds as trustee for the limited partnership, Limited partner as trustee

- (a) specific property stated in the partnership agreement as contributed by him, but which has not in fact been contributed or which has been returned contrary to this Act; and
- (b) money or other property paid or conveyed to him on account of his contribution contrary to this Act.

(3) Where a limited partner has received the return of all or part of his contribution, he is nevertheless liable to the limited partnership or, where the limited partnership is dissolved, to its creditors for any amount, not in excess of the amount returned with interest, necessary to discharge the liabilities of the limited partnership to all creditors who extended credit or whose claims otherwise arose before the return of the contribution. Idem

16. After the formation of the limited partnership, additional limited partners may be admitted by amendment of the declaration in accordance with section 18. Admission of additional limited partners

17.—(1) A limited partner's interest is assignable. Interest assignable

(2) A substituted limited partner is a person admitted to all the rights and powers of a limited partner who has died or who has assigned his interest in the limited partnership. Limited partner

Rights of
assignee

(3) An assignee who is not a substituted limited partner has no right,

(a) to inspect the limited partnership books;

(b) to be given any information about matters affecting the limited partnership or to be given an account of the partnership affairs,

but is entitled only to receive the share of the profits or other compensation by way of income or the return of the contribution to which the assignor would otherwise be entitled.

Manner of
becoming a
substituted
limited
partner

(4) An assignee may become a substituted limited partner,

(a) if all the partners, except the assignor, consent in writing thereto; or

(b) if the assignor, being so authorized by the partnership agreement, constitutes the assignee a substituted limited partner.

Idem

(5) An assignee, who is otherwise entitled to become a substituted limited partner, becomes a substituted limited partner when the declaration is amended in accordance with section 18.

Rights,
liabilities
of
substituted
limited
partner

(6) A substituted limited partner has all the rights and powers and is subject to all the restrictions and liabilities of his assignor, except any liability of which he did not have notice at the time he became a limited partner and which could not be ascertained from the partnership agreement or the declaration.

Liability
of
assignor

(7) The substitution of an assignee as a limited partner does not release the assignor from liability under section 15 or 27.

Change of
firm name

18.—(1) Where the firm name of a limited partnership is to be changed, a new declaration shall be filed with the Registrar under subsection 2 of section 3.

Declaration
of change

(2) A declaration of change shall be filed with the Registrar for every change in information, other than a change in the firm name, required to be stated in the declaration under subsection 2 of section 3.

Signing
of
declaration

(3) A declaration of change shall be signed by at least one of the general partners.

Idem

(4) A declaration of change for information required by clauses *c* and *d* of subsection 2 of section 3 shall also be signed by the limited partner or substituted limited partner who is the subject of the change.

(5) For the purposes of this Act, a change referred to in subsection 2 does not take effect until a declaration of change is filed with the Registrar. Change not effective

(6) A declaration of change expires upon the expiry, replacement or cancellation of the declaration amended by the declaration of change. Expiry

19.—(1) No limited partnership in respect of which a new declaration or a declaration of change has not been filed as required by section 18 and no member thereof is capable of maintaining any action or other proceeding in any court in Ontario in respect of any contract or tort made or arising in connection with the business carried on by the limited partnership. Failure to file declaration of change

(2) Where a new declaration or declaration of change is filed after an action or proceeding is commenced by the limited partnership or member thereof, the action or proceeding may be continued as if the declaration had been filed in accordance with this Act prior to the institution of the action or proceeding. Continuation of action

20. The retirement, death or mental incompetence of a general partner or dissolution of a corporate general partner dissolves a limited partnership unless the business is continued by the remaining general partners, Dissolution of limited partnership

- (a) pursuant to a right to do so contained in the partnership agreement; and
- (b) with the consent of all the remaining partners.

21.—(1) The executor or administrator of the estate of a limited partner has, Death of limited partner

- (a) all the rights and powers of a limited partner for the purpose of settling the estate of the limited partner; and
- (b) whatever power the limited partner had under the partnership agreement to constitute his assignee a substituted limited partner.

(2) The estate of a limited partner is liable for all the liabilities of the limited partner as a limited partner. Liability

22.—(1) A declaration of dissolution shall be filed with the Registrar when, Declaration of dissolution

- (a) the limited partnership is dissolved; or

(b) all of the limited partners cease to be limited partners.

Idem (2) The declaration of dissolution shall be signed by at least one of the general partners.

Declaration cancelled (3) When the declaration of dissolution is filed, the declaration filed under subsection 2 of section 3 is cancelled.

Settling accounts on dissolution **23.** In settling accounts after the dissolution of a limited partnership, the liabilities of the limited partnership to creditors, except to limited partners on account of their contributions and to general partners, shall be paid first, and then, unless the partnership agreement or a subsequent agreement provides otherwise, shall be paid in the following order:

1. to limited partners in respect of their share of the profits and other compensation by way of income on account of their contributions;
2. to limited partners in respect of their contributions;
3. to general partners other than for capital and profits;
4. to general partners in respect of profits;
5. to general partners in respect of capital.

Declaration **24.—(1)** No extra-provincial limited partnership shall carry on business in Ontario unless it has filed a declaration with the Registrar that sets forth the information required by subsection 2 of section 3 and states the jurisdiction in which the extra-provincial limited partnership is organized.

Carry on business (2) For the purposes of this section, an extra-provincial limited partnership carries on business in Ontario if,

- (a) it solicits business in Ontario;
- (b) its name is listed in a telephone directory for any part of Ontario;
- (c) its name is included in any advertisement in which an address in Ontario is given for the limited partnership;
- (d) it has a resident agent or representative or a warehouse, office or place of business in Ontario;
- (e) it owns real property situate in Ontario;

(f) it effects a distribution of securities in Ontario by way of a prospectus or offering memorandum in compliance with *The Securities Act, 1978* and the regulations made thereunder; or 1978, c. 47

(g) it otherwise carries on business in Ontario.

(3) The declaration filed under subsection 1 shall be signed by all of the partners. Signing of declaration

(4) When a declaration is filed under subsection 1, the extra-provincial limited partnership shall file with the Registrar a power of attorney in the prescribed form appointing a person resident in Ontario or a corporation having its head or registered office in Ontario to be the attorney and representative in Ontario of the extra-provincial limited partnership. Power of attorney

(5) Where there is a change in the firm name of an extra-provincial limited partnership, a new declaration and power of attorney shall be filed with the Registrar under this section. Change of firm name

(6) Where there is a change in the name or address of the attorney and representative in Ontario of an extra-provincial limited partnership, a new power of attorney shall be filed under this section. Change in name and address of attorney

(7) An extra-provincial limited partnership shall file a declaration of change with the Registrar for every change in the information, other than a change in the firm name, contained in the declaration filed under subsection 1 and the declaration shall be signed in the manner described in section 18. Declaration of change

(8) An extra-provincial limited partnership may cancel the declaration and the power of attorney by filing with the Registrar a declaration of withdrawal signed by at least one of the general partners. Declaration of withdrawal

25.—(1) A limited partner of an extra-provincial limited partnership is not liable in Ontario as a general partner of the extra-provincial limited partnership by reason only that it carries on business in Ontario without filing the declaration and power of attorney required by this Act. Liability of limited partner

(2) The laws of the jurisdiction under which an extra-provincial limited partnership is organized govern its organization and internal affairs and the limited liability of its limited partners. Laws applicable to extra-provincial limited partnerships

26.—(1) No extra-provincial limited partnership in respect of which a declaration or power of attorney has not been filed as required by this Act and no member thereof is capable of main- Failure to file declaration, power of attorney

taining any action or other proceeding in any court in Ontario in respect of any contract or tort made or arising in connection with the business carried on by the extra-provincial limited partnership.

Continuation
of action

(2) When a declaration and power of attorney are filed in accordance with this Act, an action or proceeding referred to in subsection 1 may be continued as if the declaration and power of attorney had been filed in accordance with this Act prior to the institution of the action or proceeding.

Effect of
false
statement
in
declaration

27. Where a declaration contains a false or misleading statement, any person suffering loss as a result of relying upon the statement may hold liable,

- (a) every partner who knew when he signed the declaration that the statement was false or misleading;
- (b) every general partner who became aware after he signed the declaration that the statement was false or misleading and failed within a reasonable time to file a declaration of change; and
- (c) every limited partner who became aware after he signed the declaration that the statement was false or misleading and failed within a reasonable time to take steps to cause a declaration of change to be filed.

Liability of
person
mistakenly
believing
he is a
limited
partner

28. A person who contributes to the capital of a business carried on by a person or partnership erroneously believing that he has become a limited partner in a limited partnership,

- (a) is not, by reason only of his exercising the rights of a limited partner, a general partner with the person or in the partnership carrying on the business; and
- (b) is not bound by the obligations of the person or partnership carrying on the business,

if, upon ascertaining the fact that he is not a limited partner, he promptly,

- (c) renounces his interest in the profits or other compensation by way of income from the business; or
- (d) takes steps to cause a declaration to be filed with the Registrar showing the person to be a limited partner.

29.—(1) A general or limited partner may give written authority to any other person to sign on his behalf any document referred to in this Act. Authority to sign

(2) A person who signs a document to be filed with the Registrar under an authority referred to in subsection 1 shall indicate in the document that he signs on behalf of a general or limited partner. Idem

30.—(1) Every partnership shall keep at its principal place of business in Ontario, Access to documents

- (a) a copy of the partnership agreement;
- (b) a copy of the declaration and a copy of each declaration of change amending the declaration;
- (c) a copy of any court order made under section 31;
- (d) a copy of any written authority given under subsection 1 of section 29; and
- (e) in the case of an extra-provincial limited partnership, a copy of the power of attorney filed with the Registrar.

(2) Where an extra-provincial limited partnership does not have a principal place of business in Ontario, the documents referred to in subsection 1 shall be kept by the attorney and representative in Ontario of the extra-provincial limited partnership at the address stated in the power of attorney filed under subsection 4 of section 24. Where no principal place of business

(3) Any partner may inspect any of the documents referred to in subsection 1 during the normal business hours of the partnership or the partnership's attorney and representative. Right to inspect

(4) Any person who has a business relationship with the partnership may inspect any of the documents referred to in clauses *b*, *c*, *d* and *e* of subsection 1 during the normal business hours of the partnership or the partnership's attorney and representative. Idem

31.—(1) In this section, "Court" means the Supreme Court of Ontario. Interpretation

(2) Where a person who is required by this Act to sign or permit inspection of a document refuses to do so, a person who is aggrieved by the refusal may apply to the Court for an order directing the person to comply with the provisions of this Act and upon such application, the Court may make such order or any Order for compliance

other order that the Court considers appropriate in the circumstances.

Application

(3) An application may be made under subsection 2 notwithstanding the imposition of a penalty in respect of the refusal and in addition to any other rights the applicant may have at law,

Offences

32.—(1) Every person who,

(a) contravenes any provision of this Act or the regulations; or

(b) makes a statement in any document, material, evidence or information submitted or required by or for the purposes of this Act that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or, if such person is a corporation, to a fine of not more than \$20,000.

False statements wilful

(2) No person is guilty of an offence referred to in clause *b* of subsection 1 if he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading.

Liability of directors and officers

(3) Where a corporation is guilty of an offence under subsection 1, every director or officer of such corporation, and where the corporation is an extra-provincial corporation, every person acting as its representative in Ontario, who authorized, permitted or acquiesced in such an offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Regulations

33. The Lieutenant Governor in Council may make regulations,

(a) prescribing fees for the purposes of this Act;

(b) respecting additional information to be included in a declaration filed under this Act;

(c) prescribing forms and providing for their use.

Transition

R.S.O. 1970,
c. 247

34.—(1) A limited partnership in existence on the day before the day this Act comes into force is continued under this Act and a certificate filed by such a limited partnership under *The Limited*

Partnerships Act shall be deemed to be a declaration filed under subsection 2 of section 3 of this Act, but such declaration expires on the date shown on the certificate.

(2) Notwithstanding section 24, an extra-provincial limited partnership may carry on business in Ontario without filing a declaration and power of attorney for sixty days after the day this Act comes into force. Idem

35. *The Limited Partnerships Act*, being chapter 247 of the Revised Statutes of Ontario, 1970 and *The Limited Partnerships Amendment Act, 1973*, being chapter 26, are repealed. Repeals

36. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

37. The short title of this Act is *The Limited Partnerships Act*, Short title
1980.

An Act to revise
The Limited Partnerships Act

1st Reading

May 27th, 1980

2nd Reading

October 7th, 1980

3rd Reading

THE HON. FRANK DREA
Minister of Consumer and Commercial
Relations

*(Reprinted as amended by the
Committee of the Whole House)*

BILL 85

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to revise The Limited Partnerships Act

THE HON. FRANK DREA
Minister of Consumer and Commercial Relations



BILL 85

1980

An Act to revise The Limited Partnerships Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “business” includes every trade, occupation and profession;
- (b) “extra-provincial limited partnership” means a limited partnership organized under the laws of a jurisdiction other than Ontario;
- (c) “person” includes an individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, and a natural person in his capacity as trustee, executor, administrator or other legal representative;
- (d) “prescribed” means prescribed in the regulations; and
- (e) “Registrar” means the Registrar of Partnerships.

2.—(1) A limited partnership may, subject to this Act, be formed to carry on any business that a partnership without limited partners may carry on.

Limited
partnership

(2) A limited partnership shall consist of one or more persons who are general partners and one or more persons who are limited partners.

Whom to
consist

3.—(1) A limited partnership is formed when a declaration is filed with the Registrar in accordance with this Act.

Formation

(2) A declaration shall be signed by all of the partners desiring to form a limited partnership and shall state,

Declaration

- (a) the firm name under which the limited partnership is to be conducted;
- (b) the general nature of the business;
- (c) the names of the partners, general and limited partners being respectively designated and for each partner,
 - (i) the surname of the partner,
 - (ii) the first or other given name by which the partner is commonly known,
 - (iii) the first letters of the other given names, if any, of the partner, and
 - (iv) the residence address or address for service of the partner, including the street name and number, if any;
- (d) the value of money and other property contributed or to be contributed by each limited partner;
- (e) the principal place of business in Ontario of the limited partnership and the address, giving street name and number, if any, where the principal place of business is located;
- (f) such other information as is required by the regulations made under this Act.

Expiry of
declaration

(3) Every declaration filed under subsection 1, including a declaration filed by an extra-provincial limited partnership, expires five years after its date of filing unless the declaration is cancelled by filing a declaration of dissolution or the declaration is replaced by filing a new declaration before the expiry date.

Subsequent
filing of
new
declaration

(4) A limited partnership is not dissolved if a declaration expires, but an additional fee in a prescribed amount is payable for the subsequent filing of a new declaration.

Partnerships
Registration
Act
R.S.O. 1970,
c.340

(5) Where a declaration is filed under this Act, a declaration is not required to be filed under *The Partnerships Registration Act*.

Filing and
recording

(6) The provisions of *The Partnerships Registration Act*, except sections 8a and 15a, and the regulations thereunder, applying to the filing and recording of declarations under that Act apply with necessary modifications to declarations under this Act.

4.—(1) A person may be a general partner and a limited partner at the same time in the same limited partnership. General and limited partners

(2) A person who is at the same time a general partner and a limited partner in the same limited partnership has the rights and powers and is subject to the restrictions and liabilities of a general partner except that in respect of his contribution as a limited partner he has the same rights against the other partners as a limited partner. Idem

5.—(1) The surname or a distinctive part of the corporate name of a limited partner shall not appear in the firm name of the limited partnership unless it is also the surname or a distinctive part of the corporate name of one of the general partners. Restriction in name of partnership

(2) Where the surname or a distinctive part of the corporate name of a limited partner appears in the firm name contrary to subsection 1, the limited partner is liable as a general partner to any creditor of the limited partnership who has extended credit without actual knowledge that the limited partner is not a general partner. Liability if limited partner

(3) Notwithstanding any Act, the word “Limited” may be used in the firm name but only in the expression “Limited Partnership”. Use of term limited

6.—(1) A limited partner may contribute money and other property to the limited partnership, but not services. Contribution of limited partner

(2) A limited partner’s interest in the limited partnership is personal property. Personal property

7. A general partner in a limited partnership has all the rights and powers and is subject to all the restrictions and liabilities of a partner in a partnership without limited partners except that, without the written consent to or ratification of the specific act by all the limited partners, a general partner has no authority to, Rights of general partners

(a) do any act in contravention of the partnership agreement;

(b) do any act which makes it impossible to carry on the ordinary business of the limited partnership;

(c) consent to a judgment against the limited partnership;

(d) possess limited partnership property, or assign any rights in specific partnership property, for other than a partnership purpose;

- (e) admit a person as a general partner;
- (f) admit a person as a limited partner, unless the right to do so is given in the partnership agreement; or
- (g) continue the business of the limited partnership on the death, retirement or mental incompetence of a general partner or dissolution of a corporate general partner, unless the right to do so is given in the partnership agreement.

Liability of
limited
partner

8. Subject to this Act, a limited partner is not liable for the obligations of the limited partnership except in respect of the value of money and other property he contributes or agrees to contribute to the limited partnership, as stated in the declaration.

Rights of
limited
partner

9. A limited partner has the same right as a general partner,

- (a) to inspect and make copies of or take extracts from the limited partnership books at all times;
- (b) to be given, on demand, true and full information concerning all matters affecting the limited partnership, and to be given a complete and formal account of the partnership affairs; and
- (c) to obtain dissolution of the limited partnership by court order.

Share of
profits

10.—(1) A limited partner has, subject to this Act, the right,

- (a) to a share of the profits or other compensation by way of income; and
- (b) to have his contribution to the limited partnership returned.

When profit
may not be
paid

(2) No payment of a share of the profits or other compensation by way of income shall be made to a limited partner from the assets of the limited partnership or of a general partner if the payment would reduce the assets of the limited partnership to an amount insufficient to discharge the liabilities of the limited partnership to persons who are not general or limited partners.

Business
dealings
by limited
partner with
partnership

11.—(1) A limited partner may loan money to and transact other business with the limited partnership and, unless he is also a general partner, may receive on account of resulting claims against the limited partnership with general creditors a prorated share of the assets, but no limited partner shall, in respect of any such claim,

- (a) receive or hold as collateral security any of the limited partnership property; or
- (b) receive from a general partner or the limited partnership any payment, conveyance or release from liability if at the time the assets of the partnership are not sufficient to discharge partnership liabilities to persons who are not general or limited partners.

(2) A limited partner may from time to time,

Rights of
limited
partner

- (a) examine into the state and progress of the limited partnership business and may advise as to its management;
- (b) act as a contractor for or an agent or employee of the limited partnership or of a general partner; or
- (c) act as a surety for the limited partnership.

12.—(1) A limited partner is not liable as a general partner unless, in addition to exercising his rights and powers as a limited partner, he takes part in the control of the business.

Limited
partner in
control of
business

(2) For the purposes of subsection 1, a limited partner shall not be presumed to be taking part in the control of the business by reason only that the limited partner exercises rights and powers in addition to the rights and powers conferred upon the limited partner by this Act.

Additional
rights and
powers

13.—(1) Subject to subsection 2, limited partners, in relation to one another, share in the limited partnership assets,

Limited
partners'
rights as
between
themselves

- (a) for the return of contributions; and
- (b) for profits or other compensation by way of income on account of their contributions,

in proportion to the respective amounts of money and other property actually contributed by the limited partners to the limited partnership.

(2) Where there are several limited partners, the partners may agree that one or more of the limited partners is to have priority over other limited partners,

Priority
agreement

- (a) as to the return of contributions;

- (b) as to profits or other compensation by way of income; or
- (c) as to any other matter,

but the terms of this agreement shall be set out in the partnership agreement.

Idem

(3) Where the partnership agreement does not contain an agreement referred to in subsection 2, the shares of the limited partners in the partnership assets shall be determined in accordance with subsection 1.

Return of
limited
partner's
contribution

14.—(1) A limited partner has the right to demand and receive the return of his contribution,

- (a) upon the dissolution of the limited partnership;
- (b) when the time specified in the partnership agreement for the return of the contribution occurs;
- (c) after he has given six months notice in writing to all other partners, if no time is specified in the partnership agreement for the return of the contribution or for the dissolution of the limited partnership; or
- (d) when all the partners consent to the return of the contribution.

Idem

(2) Notwithstanding subsection 1, a limited partner is not entitled to receive any part of his contribution out of the limited partnership assets or from a general partner until,

- (a) all liabilities of the limited partnership, except liabilities to general partners and to limited partners on account of their contributions, have been paid or there remains sufficient limited partnership assets to pay them; and
- (b) the partnership agreement is terminated or so amended, if necessary, to set forth the withdrawal or reduction of the contribution.

Idem

(3) A limited partner has, irrespective of the nature of his contribution, only the right to demand and receive money in return therefor, unless,

- (a) the partnership agreement provides otherwise; or
- (b) all the partners consent to some other manner of returning the contribution.

(4) A limited partner is entitled to have the limited partnership dissolved and its affairs wound up where, Dissolution

- (a) the limited partner is entitled to the return of his contribution but, upon demand, the contribution is not returned to him; or
- (b) the other liabilities of the limited partnership have not been paid or the limited partnership assets are insufficient for their payment as required by clause *a* of subsection 2 and the limited partner seeking dissolution would otherwise be entitled to the return of his contribution.

15.—(1) A limited partner is liable to the limited partnership for the difference, if any, between the value of money or other property actually contributed by him to the limited partnership and the value of money or other property stated in the declaration as being contributed or to be contributed by him to the limited partnership. Limited partner's liability to partnership

(2) A limited partner holds as trustee for the limited partnership, Limited partner as trustee

- (a) specific property stated in the partnership agreement as contributed by him, but which has not in fact been contributed or which has been returned contrary to this Act; and
- (b) money or other property paid or conveyed to him on account of his contribution contrary to this Act.

(3) Where a limited partner has received the return of all or part of his contribution, he is nevertheless liable to the limited partnership or, where the limited partnership is dissolved, to its creditors for any amount, not in excess of the amount returned with interest, necessary to discharge the liabilities of the limited partnership to all creditors who extended credit or whose claims otherwise arose before the return of the contribution. Idem

16. After the formation of the limited partnership, additional limited partners may be admitted by amendment of the declaration in accordance with section 18. Admission of additional limited partners

17.—(1) A limited partner's interest is assignable. Interest assignable

(2) A substituted limited partner is a person admitted to all the rights and powers of a limited partner who has died or who has assigned his interest in the limited partnership. Limited partner

Rights of
assignee

(3) An assignee who is not a substituted limited partner has no right,

(a) to inspect the limited partnership books;

(b) to be given any information about matters affecting the limited partnership or to be given an account of the partnership affairs,

but is entitled only to receive the share of the profits or other compensation by way of income or the return of the contribution to which the assignor would otherwise be entitled.

Manner of
becoming a
substituted
limited
partner

(4) An assignee may become a substituted limited partner,

(a) if all the partners, except the assignor, consent in writing thereto; or

(b) if the assignor, being so authorized by the partnership agreement, constitutes the assignee a substituted limited partner.

Idem

(5) An assignee, who is otherwise entitled to become a substituted limited partner, becomes a substituted limited partner when the declaration is amended in accordance with section 18.

Rights,
liabilities
of
substituted
limited
partner

(6) A substituted limited partner has all the rights and powers and is subject to all the restrictions and liabilities of his assignor, except any liability of which he did not have notice at the time he became a limited partner and which could not be ascertained from the partnership agreement or the declaration.

Liability
of
assignor

(7) The substitution of an assignee as a limited partner does not release the assignor from liability under section 15 or 27.

Change of
firm name

18.—(1) Where the firm name of a limited partnership is to be changed, a new declaration shall be filed with the Registrar under subsection 2 of section 3.

Declaration
of change

(2) A declaration of change shall be filed with the Registrar for every change in information, other than a change in the firm name, required to be stated in the declaration under subsection 2 of section 3.

Signing
of
declaration

(3) A declaration of change shall be signed by at least one of the general partners.

Idem

(4) A declaration of change for information required by clauses *c* and *d* of subsection 2 of section 3 shall also be signed by the limited partner or substituted limited partner who is the subject of the change.

(5) For the purposes of this Act, a change referred to in subsection 2 does not take effect until a declaration of change is filed with the Registrar. Change not effective

(6) A declaration of change expires upon the expiry, replacement or cancellation of the declaration amended by the declaration of change. Expiry

19.—(1) No limited partnership in respect of which a new declaration or a declaration of change has not been filed as required by section 18 and no member thereof is capable of maintaining any action or other proceeding in any court in Ontario in respect of any contract or tort made or arising in connection with the business carried on by the limited partnership. Failure to file declaration of change

(2) Where a new declaration or declaration of change is filed after an action or proceeding is commenced by the limited partnership or member thereof, the action or proceeding may be continued as if the declaration had been filed in accordance with this Act prior to the institution of the action or proceeding. Continuation of action

20. The retirement, death or mental incompetence of a general partner or dissolution of a corporate general partner dissolves a limited partnership unless the business is continued by the remaining general partners, Dissolution of limited partnership

(a) pursuant to a right to do so contained in the partnership agreement; and

(b) with the consent of all the remaining partners.

21.—(1) The executor or administrator of the estate of a limited partner has, Death of limited partner

(a) all the rights and powers of a limited partner for the purpose of settling the estate of the limited partner; and

(b) whatever power the limited partner had under the partnership agreement to constitute his assignee a substituted limited partner.

(2) The estate of a limited partner is liable for all the liabilities of the limited partner as a limited partner. Liability

22.—(1) A declaration of dissolution shall be filed with the Registrar when, Declaration of dissolution

(a) the limited partnership is dissolved; or

(b) all of the limited partners cease to be limited partners.

Idem (2) The declaration of dissolution shall be signed by at least one of the general partners.

Declaration cancelled (3) When the declaration of dissolution is filed, the declaration filed under subsection 2 of section 3 is cancelled.

Settling accounts on dissolution **23.** In settling accounts after the dissolution of a limited partnership, the liabilities of the limited partnership to creditors, except to limited partners on account of their contributions and to general partners, shall be paid first, and then, unless the partnership agreement or a subsequent agreement provides otherwise, shall be paid in the following order:

1. to limited partners in respect of their share of the profits and other compensation by way of income on account of their contributions;
2. to limited partners in respect of their contributions;
3. to general partners other than for capital and profits;
4. to general partners in respect of profits;
5. to general partners in respect of capital.

Declaration **24.—(1)** No extra-provincial limited partnership shall carry on business in Ontario unless it has filed a declaration with the Registrar that sets forth the information required by subsection 2 of section 3 and states the jurisdiction in which the extra-provincial limited partnership is organized.

Carry on business (2) For the purposes of this section, an extra-provincial limited partnership carries on business in Ontario if,

- (a) it solicits business in Ontario;
- (b) its name is listed in a telephone directory for any part of Ontario;
- (c) its name is included in any advertisement in which an address in Ontario is given for the limited partnership;
- (d) it has a resident agent or representative or a warehouse, office or place of business in Ontario;
- (e) it owns real property situate in Ontario;

(f) it effects a distribution of securities in Ontario by way of a prospectus or offering memorandum in compliance with *The Securities Act, 1978* and the regulations made thereunder; or 1978, c. 47

(g) it otherwise carries on business in Ontario.

(3) The declaration filed under subsection 1 shall be signed by all of the partners. Signing of declaration

(4) When a declaration is filed under subsection 1, the extra-provincial limited partnership shall file with the Registrar a power of attorney in the prescribed form appointing a person resident in Ontario or a corporation having its head or registered office in Ontario to be the attorney and representative in Ontario of the extra-provincial limited partnership. Power of attorney

(5) Where there is a change in the firm name of an extra-provincial limited partnership, a new declaration and power of attorney shall be filed with the Registrar under this section. Change of firm name

(6) Where there is a change in the name or address of the attorney and representative in Ontario of an extra-provincial limited partnership, a new power of attorney shall be filed under this section. Change in name and address of attorney

(7) An extra-provincial limited partnership shall file a declaration of change with the Registrar for every change in the information, other than a change in the firm name, contained in the declaration filed under subsection 1 and the declaration shall be signed in the manner described in section 18. Declaration of change

(8) An extra-provincial limited partnership may cancel the declaration and the power of attorney by filing with the Registrar a declaration of withdrawal signed by at least one of the general partners. Declaration of withdrawal

25.—(1) A limited partner of an extra-provincial limited partnership is not liable in Ontario as a general partner of the extra-provincial limited partnership by reason only that it carries on business in Ontario without filing the declaration and power of attorney required by this Act. Liability of limited partner

(2) The laws of the jurisdiction under which an extra-provincial limited partnership is organized govern its organization and internal affairs and the limited liability of its limited partners. Laws applicable to extra-provincial limited partnerships

26.—(1) No extra-provincial limited partnership in respect of which a declaration or power of attorney has not been filed as required by this Act and no member thereof is capable of main- Failure to file declaration, power of attorney

taining any action or other proceeding in any court in Ontario in respect of any contract or tort made or arising in connection with the business carried on by the extra-provincial limited partnership.

Continuation
of action

(2) When a declaration and power of attorney are filed in accordance with this Act, an action or proceeding referred to in subsection 1 may be continued as if the declaration and power of attorney had been filed in accordance with this Act prior to the institution of the action or proceeding.

Effect of
false
statement
in
declaration

27. Where a declaration contains a false or misleading statement, any person suffering loss as a result of relying upon the statement may hold liable,

- (a) every partner who knew when he signed the declaration that the statement was false or misleading;
- (b) every general partner who became aware after he signed the declaration that the statement was false or misleading and failed within a reasonable time to file a declaration of change; and
- (c) every limited partner who became aware after he signed the declaration that the statement was false or misleading and failed within a reasonable time to take steps to cause a declaration of change to be filed.

Liability of
person
mistakenly
believing
he is a
limited
partner

28. A person who contributes to the capital of a business carried on by a person or partnership erroneously believing that he has become a limited partner in a limited partnership,

- (a) is not, by reason only of his exercising the rights of a limited partner, a general partner with the person or in the partnership carrying on the business; and
- (b) is not bound by the obligations of the person or partnership carrying on the business,

if, upon ascertaining the fact that he is not a limited partner, he promptly,

- (c) renounces his interest in the profits or other compensation by way of income from the business; or
- (d) takes steps to cause a declaration to be filed with the Registrar showing the person to be a limited partner.

29.—(1) A general or limited partner may give written authority to any other person to sign on his behalf any document referred to in this Act. Authority to sign

(2) A person who signs a document to be filed with the Registrar under an authority referred to in subsection 1 shall indicate in the document that he signs on behalf of a general or limited partner. Idem

30.—(1) Every partnership shall keep at its principal place of business in Ontario, Access to documents

- (a) a copy of the partnership agreement;
- (b) a copy of the declaration and a copy of each declaration of change amending the declaration;
- (c) a copy of any court order made under section 31;
- (d) a copy of any written authority given under subsection 1 of section 29; and
- (e) in the case of an extra-provincial limited partnership, a copy of the power of attorney filed with the Registrar.

(2) Where an extra-provincial limited partnership does not have a principal place of business in Ontario, the documents referred to in subsection 1 shall be kept by the attorney and representative in Ontario of the extra-provincial limited partnership at the address stated in the power of attorney filed under subsection 4 of section 24. Where no principal place of business

(3) Any partner may inspect any of the documents referred to in subsection 1 during the normal business hours of the partnership or the partnership's attorney and representative. Right to inspect

(4) Any person who has a business relationship with the partnership may inspect any of the documents referred to in clauses *b*, *c*, *d* and *e* of subsection 1 during the normal business hours of the partnership or the partnership's attorney and representative. Idem

31.—(1) In this section, "Court" means the Supreme Court of Ontario. Interpretation

(2) Where a person who is required by this Act to sign or permit inspection of a document refuses to do so, a person who is aggrieved by the refusal may apply to the Court for an order directing the person to comply with the provisions of this Act and upon such application, the Court may make such order or any Order for compliance

other order that the Court considers appropriate in the circumstances.

Application

(3) An application may be made under subsection 2 notwithstanding the imposition of a penalty in respect of the refusal and in addition to any other rights the applicant may have at law,

Offences

32.—(1) Every person who,

(a) contravenes any provision of this Act or the regulations; or

(b) makes a statement in any document, material, evidence or information submitted or required by or for the purposes of this Act that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or, if such person is a corporation, to a fine of not more than \$20,000.

False
statements
wilful

(2) No person is guilty of an offence referred to in clause *b* of subsection 1 if he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading.

Liability of
directors
and
officers

(3) Where a corporation is guilty of an offence under subsection 1, every director or officer of such corporation, and where the corporation is an extra-provincial corporation, every person acting as its representative in Ontario, who authorized, permitted or acquiesced in such an offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Regulations

33. The Lieutenant Governor in Council may make regulations,

(a) prescribing fees for the purposes of this Act;

(b) respecting additional information to be included in a declaration filed under this Act;

(c) prescribing forms and providing for their use.

Transition

R.S.O. 1970,
c. 247

34.—(1) A limited partnership in existence on the day before the day this Act comes into force is continued under this Act and a certificate filed by such a limited partnership under *The Limited*

Partnerships Act shall be deemed to be a declaration filed under subsection 2 of section 3 of this Act, but such declaration expires on the date shown on the certificate.

(2) Notwithstanding section 24, an extra-provincial limited ^{Idem} partnership may carry on business in Ontario without filing a declaration and power of attorney for sixty days after the day this Act comes into force.

35. *The Limited Partnerships Act*, being chapter 247 of the ^{Repeals} Revised Statutes of Ontario, 1970 and *The Limited Partnerships Amendment Act, 1973*, being chapter 26, are repealed.

36. This Act comes into force on a day to be named by procla- ^{Commence-} mation of the Lieutenant Governor. ^{ment}

37. The short title of this Act is *The Limited Partnerships Act*, ^{Short title} 1980.

An Act to revise
The Limited Partnerships Act

1st Reading

May 27th, 1980

2nd Reading

October 7th, 1980

3rd Reading

October 14th, 1980

THE HON. FRANK DREA
Minister of Consumer and Commercial
Relations

BILL 86

Private Member's Bill

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

**An Act to amend
The Provincial Offences Act, 1979**

MR. WARNER



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to declare that every person who is arrested on the grounds of having committed a provincial offence is entitled to retain and instruct counsel without delay.

BILL 86

1980

An Act to amend The Provincial Offences Act, 1979

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Provincial Offences Act, 1979*, being chapter 4, is amended by adding thereto the following section: s. 132a,
enacted

132a.—(1) It is the right of every person who is arrested, whether with or without a warrant, to be permitted to retain and instruct counsel without delay. Right to
retain
counsel

(2) It is the duty of every one who arrests a person, whether with or without a warrant, to refrain from interrogating the person about any matter related to the reason for the arrest until the person has had a reasonable opportunity to retain and instruct counsel. Inter-
rogation

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Provincial Offences Amendment Act, 1980*. Short title

BILL 86

An Act to amend
The Provincial Offences Act, 1979

1st Reading

May 29th, 1980

2nd Reading

3rd Reading

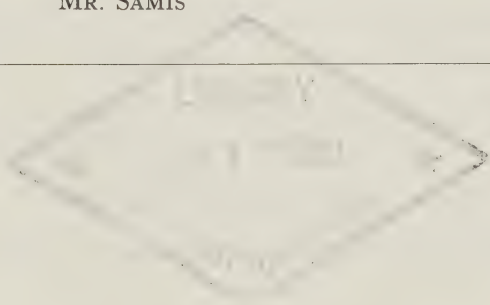
MR. WARNER

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Law Society Act

MR. SAMIS



EXPLANATORY NOTE

The purpose of the Bill is to permit lawyers in Ontario to advertise their services to members of the public.

BILL 87

1980

An Act to amend The Law Society Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Law Society Act*, being chapter 238 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 56, enacted

56.—(1) Every member is entitled to advertise the office hours, languages spoken, educational qualifications, professional affiliations, preferred areas of practice, the fees charged for initial consultations and the fees charged for services, references, publications and, where the clients give consent, representative clients of the member. Member's right to advertise

(2) A member may advertise only by publication in a newspaper, magazine or other form of print media. Advertising by publication

(3) A member who advertises his services in a manner that is misleading or deceptive is guilty of professional misconduct. Misleading advertising

2. This Act comes into force on the day it receives Royal Assent. Commencement
3. The short title of this Act is *The Law Society Amendment Act, 1980*. Short title

BILL 87

An Act to amend
The Law Society Act

1st Reading

May 29th, 1980

2nd Reading

3rd Reading

MR. SAMIS

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Legislative Assembly

**An Act to amend
The Legislative Assembly Act**

MR. SWART



EXPLANATORY NOTE

The purpose of this Bill is to declare that the designations "Member of the Legislative Assembly" and "M.L.A." are the official designations of persons who are elected to the Legislative Assembly. The Bill provides that only members of the Legislative Assembly are entitled to use either of the official designations in association with themselves while sitting as elected members of the Assembly and during the succeeding election period.

BILL 88

1980

An Act to amend The Legislative Assembly Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Legislative Assembly Act*, being chapter 240 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 15a,
enacted

15a.—(1) The designations “Member of the Legislative Assembly” and “M.L.A.” shall be the official designations of a person who is elected to the Assembly and no person shall use either of the official designations in association with himself or otherwise purport to be a member of the Assembly unless that person is an elected member of the Assembly. Official
designation
of members

(2) Nothing in subsection 1 prohibits a person who is a member of the Assembly from using the official designation “Member of the Legislative Assembly” or “M.L.A.” during the election period immediately following the dissolution of the Legislature to which the person was elected but that person is not entitled to use either of the official designations after the polling day in the election unless the person has been elected to the succeeding Legislature. Idem

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Legislative Assembly Amendment Act, 1980*. Short title

An Act to amend
The Legislative Assembly Act

1st Reading

June 2nd, 1980

2nd Reading

3rd Reading

MR. SWART

(Private Member's Bill)

3
BILL 89

Government Bill

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Legislative Assembly

An Act to amend The Labour Relations Act

THE HON. R. ELGIE
Minister of Labour



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. Under the proposed section 34e of the Act, an employer will have the right to require, either before or after the commencement of a strike or lock-out, that a vote be held on the employer's last offer.

SECTION 2. Section 36a (1) now reads as follows:

- (1) *Except in the construction industry, where a trade union that is the bargaining agent for employees in a bargaining unit so requests, there shall be included in the collective agreement between the trade union and the employer of the employees a provision that at the written request of an employee in the bargaining unit the employer shall deduct from the wages of the employee the amount of the regular union dues payable by members of the trade union and remit the amount to the trade union.*

Under the proposed re-enactment of section 36a (1), a trade union that has been certified as the bargaining agent for employees in a bargaining unit will have the right to require that a collective agreement contain a provision requiring the deduction of union dues from the wages of each employee in the bargaining unit whether or not the employee is a member of the trade union. Section 36a (1), as re-enacted, will not apply to the construction industry or to an employee who objects on religious grounds to the paying of union dues.

BILL 89

1980

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 34e,
enacted

34e.—(1) Before or after the commencement of a strike or lock-out, the employer of the employees in the affected bargaining unit may request that a vote of such employees be taken as to the acceptance or rejection of the offer of the employer last received by the trade union in respect of all matters remaining in dispute between the parties and the Minister shall on such terms as he considers necessary direct that a vote of such employees to accept or reject the offer be held and thereafter no further such request shall be made. Vote on
employer's
offer

(2) Subsection 1 does not affect the application or operation of any provision of this Act. Proviso

- 2.—(1) Subsection 1 of section 36a of the said Act, as enacted by the Statutes of Ontario, 1975, chapter 76, section 9, is repealed and the following substituted therefor: s. 36a (1),
re-enacted

(1) Except in the construction industry and subject to section 39, where a trade union that is the bargaining agent for employees in a bargaining unit so requests, there shall be included in the collective agreement between the trade union and the employer of the employees a provision requiring the employer to deduct from the wages of each employee in the unit affected by the collective agreement, whether or not the employee is a member of the union, the amount of the regular union dues and to remit the amount to the trade union, forthwith. Deduction
and
remittance
of union
dues

- (2) Subsection 1 of section 36a of *The Labour Relations Act*, as re-enacted by subsection 1 of this section, does not apply to a collective agreement in operation on the day this section comes Application

into force but applies to every collective agreement that is renewed or made after that date.

s. 63,
amended

3. Section 63 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 76, section 17, is further amended by adding thereto the following subsection:

Right
to vote

(4a) All employees in a bargaining unit, whether or not such employees are members of the trade union or of any constituent union of a council of trade unions, shall be entitled to participate in a strike vote or a vote to ratify a proposed collective agreement.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is *The Labour Relations Amendment Act, 1980*.

SECTION 3. Self-explanatory.

BILL 89

An Act to amend
The Labour Relations Act

1st Reading

June 3rd, 1980

2nd Reading

3rd Reading

THE HON. R. ELGIE
Minister of Labour

(Government Bill)

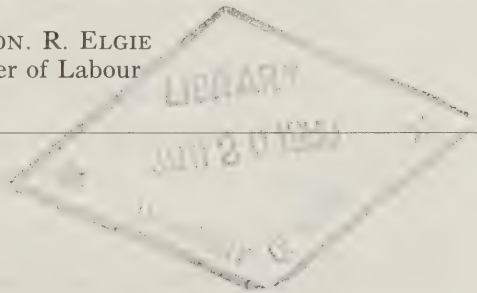
BILL 89

Government Bill

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Labour Relations Act

THE HON. R. ELGIE
Minister of Labour



(Reprinted as amended by the Committee of the Whole House)

TORONTO

PRINTED BY I. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. Under the proposed section 34e of the Act, an employer will have the right to request, either before or after the commencement of a strike or lock-out, that a vote be held on the employer's last offer.

SECTION 2. Section 36a (1) now reads as follows:

(1) Except in the construction industry, where a trade union that is the bargaining agent for employees in a bargaining unit so requests, there shall be included in the collective agreement between the trade union and the employer of the employees a provision that at the written request of an employee in the bargaining unit the employer shall deduct from the wages of the employee the amount of the regular union dues payable by members of the trade union and remit the amount to the trade union.

Under the proposed re-enactment of section 36a (1), a trade union that has been certified as the bargaining agent for employees in a bargaining unit will have the right to require that a collective agreement contain a provision requiring the deduction of union dues from the wages of each employee in the bargaining unit whether or not the employee is a member of the trade union. Section 36a (1), as re-enacted, will not apply to the construction industry or to an employee who objects on religious grounds to the paying of union dues.

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

34e.—(1) Before or after the commencement of a strike or lock-out, the employer of the employees in the affected bargaining unit may request that a vote of such employees be taken as to the acceptance or rejection of the offer of the employer last received by the trade union in respect of all matters remaining in dispute between the parties and the Minister shall, and in the construction industry the Minister may, on such terms as he considers necessary direct that a vote of such employees to accept or reject the offer be held and thereafter no further such request shall be made.

s. 34e,
enacted

Vote on
employer's
offer

- (2) A request for the taking of a vote, or the holding of a vote, under subsection 1 does not abridge or extend any time limits or periods provided for in this Act.

Time limits
and periods
not affected

- 2.—(1) Subsection 1 of section 36a of the said Act, as enacted by the Statutes of Ontario, 1975, chapter 76, section 9, is repealed and the following substituted therefor:

s. 36a (1),
re-enacted

(1) Except in the construction industry and subject to section 39, where a trade union that is the bargaining agent for employees in a bargaining unit so requests, there shall be included in the collective agreement between the trade union and the employer of the employees a provision requiring the employer to deduct from the wages of each employee in the unit affected by the collective agreement, whether or not the employee is a member of the union, the amount of the regular union dues and to remit the amount to the trade union, forthwith.

Deduction
and
remittance
of union
dues

- (2) Subsection 1 of section 36a of *The Labour Relations Act*, as re-enacted by subsection 1 of this section, does not apply to a collective agreement in operation on the day this section comes

Application

into force but applies to every collective agreement that is renewed or made after that date.

s. 63,
amended

3. Section 63 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 76, section 17, is further amended by adding thereto the following subsection:

Right
to vote

(4a) All employees in a bargaining unit, whether or not such employees are members of the trade union or of any constituent union of a council of trade unions, shall be entitled to participate in a strike vote or a vote to ratify a proposed collective agreement.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is *The Labour Relations Amendment Act, 1980*.

SECTION 3. Self-explanatory.

An Act to amend
The Labour Relations Act

1st Reading

June 3rd, 1980

2nd Reading

June 10th, 1980

3rd Reading

THE HON. R. ELGIE
Minister of Labour

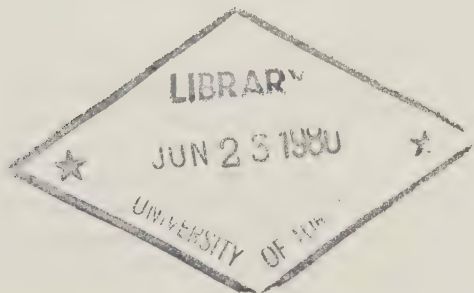
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Committee of the Whole House)*

4TH SESSION, 31ST LEGISLATURE, ¹ONTARIO
29 ELIZABETH II, 1980 ²

Legislative Assembly

An Act to amend The Labour Relations Act

THE HON. R. ELGIE
Minister of Labour



TORONTO

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An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

s. 34e,
enacted

34e.—(1) Before or after the commencement of a strike or lock-out, the employer of the employees in the affected bargaining unit may request that a vote of such employees be taken as to the acceptance or rejection of the offer of the employer last received by the trade union in respect of all matters remaining in dispute between the parties and the Minister shall, and in the construction industry the Minister may, on such terms as he considers necessary direct that a vote of such employees to accept or reject the offer be held and thereafter no further such request shall be made.

Vote on
employer's
offer

(2) A request for the taking of a vote, or the holding of a vote, under subsection 1 does not abridge or extend any time limits or periods provided for in this Act.

Time limits
and periods
not affected

- 2.—(1) Subsection 1 of section 36a of the said Act, as enacted by the Statutes of Ontario, 1975, chapter 76, section 9, is repealed and the following substituted therefor:

s. 36a (1),
re-enacted

(1) Except in the construction industry and subject to section 39, where a trade union that is the bargaining agent for employees in a bargaining unit so requests, there shall be included in the collective agreement between the trade union and the employer of the employees a provision requiring the employer to deduct from the wages of each employee in the unit affected by the collective agreement, whether or not the employee is a member of the union, the amount of the regular union dues and to remit the amount to the trade union, forthwith.

Deduction
and
remittance
of union
dues

(2) Subsection 1 of section 36a of *The Labour Relations Act*, as re-enacted by subsection 1 of this section, does not apply to a collective agreement in operation on the day this section comes

Application

into force but applies to every collective agreement that is renewed or made after that date.

s. 63,
amended

- 3.** Section 63 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 76, section 17, is further amended by adding thereto the following subsection:

Right
to vote

(4a) All employees in a bargaining unit, whether or not such employees are members of the trade union or of any constituent union of a council of trade unions, shall be entitled to participate in a strike vote or a vote to ratify a proposed collective agreement.

Commence-
ment

- 4.** This Act comes into force on the day it receives Royal Assent.

Short title

- 5.** The short title of this Act is *The Labour Relations Amendment Act, 1980*.



BILL 89

An Act to amend
The Labour Relations Act

1st Reading

June 3rd, 1980

2nd Reading

June 10th, 1980

3rd Reading

June 12th, 1980

THE HON. R. ELGIE
Minister of Labour

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Legislation Assembly

An Act to control Professional Fund-raising Corporations

MR. NEWMAN
(Windsor-Walkerville)



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

This Bill provides for the licensing of companies and bonding of personnel and would require the company to file a financial statement with the Minister after each fund-raising event and would limit by regulation the amount which could be charged over and above direct expenses.

It is not the intention to interfere with local Red Feather, United Appeal or similar drives where much of the organization work is of a voluntary nature and expenses incurred are a very small proportion of the total proceeds.

BILL 90

1980

An Act to control Professional Fund-raising Corporations

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Commissioner" means the Commissioner of professional fund-raising corporations;
- (b) "Director" means the Director of the Consumer Protection Division of the Ministry;
- (c) "Minister" means the Minister of Consumer and Commercial Relations;
- (d) "Ministry" means the Ministry of Consumer and Commercial Relations;
- (e) "professional fund-raising corporation" means a corporation that has as its objects, the raising of money for non-profit organizations in return for remuneration of any kind and includes a sole proprietorship or partnership which raises money for non-profit organizations in return for remuneration of any kind;
- (f) "regulations" means the regulations made under this Act;
- (g) "Tribunal" means The Commercial Registration Appeal Tribunal established under *The Department of Financial and Commercial Affairs Act*.

R.S.O. 1970,
c. 113

COMMISSIONER

2.—(1) There shall be a Commissioner of professional fund-raising corporations who shall be appointed by the Lieutenant Governor in Council.

Commis-
sioner

Powers and
duties of
Commissioner

(2) The Commissioner may exercise the powers and shall discharge the duties conferred and imposed upon him by this Act and the regulations under the supervision of the Director.

LICENSING

Licensing

3.—(1) No person shall engage in business as a professional fund-raising corporation unless he is licensed as a professional fund-raising corporation.

Change in
partnership

(2) Where a partnership is licensed under subsection 1, any change in the membership of the partnership shall be deemed to create a new partnership for the purpose of licensing.

Licensing,
exception

4.—(1) An applicant is entitled to a licence or renewal of a licence by the Commissioner except where,

- (a) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business; or
- (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty; or
- (c) the applicant is a corporation and,
 - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or
 - (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty; or
- (d) the applicant is carrying on activities that are, or will be, if the applicant is licensed, in contravention of this Act or the regulations.

Conditions of
a licence

(2) A licence is subject to such terms and conditions to give effect to the purposes of this Act as are consented to by the applicant, imposed by the Tribunal or prescribed by the regulations.

Refusal to
grant a
licence

5.—(1) Subject to section 9, the Commissioner may refuse to grant a licence to an applicant where in the Commissioner's opinion the applicant is disentitled to a licence under section 4.

(2) Subject to section 6, the Commissioner may refuse to renew or may suspend or revoke a licence for any reason that would disentitle the licensee to a licence under section 4 if he were an applicant or where the licensee is in breach of a term or condition of the licence. Revocation

6.—(1) Where the Commissioner proposes to refuse to grant or renew a licence or proposes to suspend or revoke a licence, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee. Notice of proposal to refuse or revoke

(2) A notice under subsection 1 shall inform the applicant or licensee that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under section 1 is served on him, notice in writing requiring a hearing to the Commissioner and the Tribunal, and he may so require such a hearing. Notice requiring hearing

(3) Where an applicant or licensee does not require a hearing by the Tribunal in accordance with subsection 2, the Commissioner may carry out the proposal stated in his notice under subsection 1. Powers of Commissioner where no hearing

(4) Where an applicant or licensee requires a hearing by the Tribunal in accordance with subsection 2, the Tribunal shall appoint a time for and hold the hearing and, on the application of the Commissioner at the hearing, may by order direct the Commissioner to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Commissioner ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Commissioner. Powers of Tribunal where hearing

(5) The Tribunal may attach such terms and conditions to its order or to the licence as it considers proper to give effect to the purposes of this Act. Conditions of order

(6) The Commissioner, the applicant or licensee who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section. Parties

(7) Notwithstanding subsection 1, the Commissioner may cancel a licence upon the request in writing of the licensee in the prescribed form surrendering his licence. Voluntary cancellation

(8) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue, Continuation of licence pending renewal

(a) until the renewal is granted; or

(b) where he is served with notice that the Commissioner proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Tribunal has made its order.

Orders of
Tribunal
effective, stay
R.S.O. 1970,
c. 113

(9) Notwithstanding that a licensee appeals from an order of the Tribunal under section 9b of *The Ministry of Consumer and Commercial Relations Act*, the order takes effect immediately, but the Tribunal may grant a stay until disposition of the appeal.

Further
applications

7. A further application for a licence may be made upon new or other evidence or where it is clear that material circumstances have changed.

Investiga-
tion of
complaints

8.—(1) Where the Commissioner receives a complaint in respect of a professional fund-raising corporation and so requests in writing, the professional fund-raising corporation shall furnish the Commissioner with such information respecting the matter complained of as the Commissioner requires.

Idem

(2) The request under subsection 1 shall indicate the nature of the inquiry involved.

Idem

(3) For the purposes of subsection 1, the Commissioner or any person designated in writing by him may at any reasonable time enter upon the business premises of the licensee to make an inspection in relation to the complaint.

Inspection

9.—(1) The Commissioner or any person designated by him in writing may at any reasonable time enter upon the business premises of the licensee to make an inspection to ensure that the provisions of this Act and the regulations relating to a licence are being complied with.

Idem

(2) Where the Commissioner has reasonable and probable grounds to believe that any person is acting as a professional fund-raising corporation while not licensed, the Commissioner or any person designated by him in writing may at any reasonable time enter upon such person's business premises to make an inspection for the purpose of determining whether or not the person is in contravention of section 3.

Powers on
inspection

10.—(1) Upon an inspection under section 8 or 9, the person inspecting,

(a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, cor-

response and records of the person being inspected that are relevant for the purposes of the inspection; and

- (b) may, upon giving a receipt therefor, remove any material referred to in clause *a* that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection.

(2) Any copy made as provided in subsection 1 and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original. Admissibility of copies

11. The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation as if it were an inquiry under that Act. Investigations by order of Minister
1971, c. 49

12.—(1) Where, upon a statement made under oath, the Director believes on reasonable and probable grounds that any person has, Investigation by Director

- (a) contravened any of the provisions of this Act or the regulations; or
- (b) committed an offence under the *Criminal Code* (Canada) or under the law of any jurisdiction that is relevant to his fitness for licensing under this Act, R.S.C. 1970, c. C-34

the Director may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulation or the commission of such an offence has occurred, and the person appointed shall report the result of his investigation to the Director.

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to Powers of investigator

make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,

- (a) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subject-matter of the investigation; and
- (b) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

1971, c. 49

Obstruction
of
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

Search
warrant

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause *a* of subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of
books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause *a* of subsection 2 or subsection 4 relating to the person whose

affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated.

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents. Admissibility of copies

(7) The Minister or Director may appoint any expert to examine books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4. Appointment of experts

13.—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under section 8, 9, 10, 11 or 12, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except, Matters confidential

(a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or

(b) to his counsel; or

(c) with the consent of the person to whom the information relates.

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations. Testimony in civil suit

14. Where, upon the report of an investigation made under subsection 1 of section 13, it appears to the Director that a person may have, Report

(a) contravened any of the provisions of this Act or the regulations; or

(b) committed an offence, under the *Criminal Code* (Canada) or under the law of any jurisdiction, that is relevant to his fitness for licensing under this Act, R.S.C. 1970, c. C-34

the Director shall send a full and complete report of the investigation, including the report made to him, any transcript or evidence and any material in the possession of the Director relating thereto, to the Minister.

Order to
refrain from
dealing with
assets

15.—(1) Where,

- (a) an investigation of any person has been ordered under section 13; or
- (b) criminal proceedings or proceedings in relation to a contravention of any Act or regulation are about to be or have been instituted against a person that are connected with or arise out of the business in respect of which such person is registered,

the Director, if he believes it advisable for the protection of clients or customers of the person referred to in clause *a* or *b*, may, in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds of the person referred to in clause *a* or *b* to hold such assets or trust funds or direct the person referred to in clause *a* or *b* to refrain from withdrawing any such assets or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of clients, customers or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act*, *The Business Corporations Act* or the *Winding-up Act* (Canada), or until the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction.

R.S.O. 1970,
cc. 228, 89, 53
R.S.C. 1970,
cc. B-4, W-11

Bond in
lieu

(2) Subsection 1 does not apply where the person referred to in clause *a* or *b* of subsection 1 files with the Director,

- (a) a personal bond accompanied by collateral security;
- (b) a bond of a guarantee company approved under *The Guarantee Companies Securities Act*; or
- (c) a bond of a guarantor, other than a guarantee company, accompanied by collateral security,

R.S.O. 1970,
c. 196

in such form, terms and amount as the Director determines.

(3) Any person in receipt of a direction given under subsection 1, if in doubt as to the application of the direction to any assets or trust funds, or in case of a claim being made thereto by a person not named in the direction, may apply to a judge or local judge of the Supreme Court who may direct the disposition of such assets or trust funds and may make such order as to costs as seems just.

Application
for
direction

REGULATION OF PROFESSIONAL FUND-RAISING CORPORATIONS

16.—(1) Every professional fund-raising corporation shall keep a record sheet in the prescribed form and proper books and accounts with respect to his business as a professional fund-raising corporation.

Books, etc.,
to be kept

(2) In addition to those records prescribed under subsection 1, every professional fund-raising corporation shall file with the Minister for each fund-raising event undertaken by the corporation a financial statement in the prescribed form showing the amount collected, the expenses of the campaign and the amount turned over to the non-profit organization for which the campaign was conducted.

Idem

17.—(1) Every professional fund-raising corporation shall maintain an account designated as a trust account in a chartered bank, loan or trust company or Province of Ontario Savings Office in which shall be deposited all moneys that come into its hands in trust for other persons in connection with its business, and it shall at all times keep such moneys separate and apart from moneys belonging to itself or to the partnership, in the case of a partnership, and shall disburse such moneys only in accordance with the terms of the trust.

Bank
account

(2) Where a professional fund-raising corporation holds moneys in trust for a period of one year after the person for whom it is held first became entitled to payment of the moneys and such person cannot be located, the professional fund-raising corporation shall pay the moneys to the Treasurer of Ontario who shall pay the moneys to the person appearing to the Treasurer to be entitled thereto.

Unclaimed
trust
moneys

18. Every professional fund-raising corporation shall be bonded in the form and manner as is prescribed in the regulations.

Bonding

19. No professional fund-raising corporation shall charge an amount towards overhead in relation to direct expenses greater than that amount prescribed in the regulations.

Overhead

Service

20.—(1) Any notice or order required to be given or served under this Act or the regulations is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address for service appearing on the records of the Ministry.

Where
service
deemed
to be
made

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

Exception

(3) Notwithstanding subsections 1 and 2, the Tribunal may order any other method of service in respect of any matter before the Tribunal.

Restrain-
ing orders

21.—(1) Where it appears to the Director that any person does not comply with any provision of this Act, the regulations or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the Director may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Supreme Court from an order made under subsection 1.

Offences

22.—(1) Every person who, knowingly,

- (a) furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;
- (b) fails to comply with any order, direction or other requirement made under this Act; or
- (c) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein. Corporations

(3) No proceedings under this section shall be instituted except with the consent of the Minister. Consent of Minister

(4) No proceeding under clause *a* of subsection 1 shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Director. Limitation

(5) No proceeding under clause *b* or *c* of subsection 1 shall be commenced more than two years after the time when the subject-matter of the proceeding arose. Idem

23. The Lieutenant Governor in Council may make regulations, Regulations

- (a) requiring and governing the books, accounts and records that shall be kept by licensed professional fund-raising corporations;
- (b) prescribing the form of financial statements to be filed under subsection 2 of section 16;
- (c) governing applications for a licence or renewal of a licence and prescribing terms and conditions of licences;
- (d) prescribing the fees payable upon applications for licences and renewal of licences and any other fees in connection with the administration of this Act and the regulations;
- (e) prescribing the practice and procedure upon investigations under sections 8 and 10;
- (f) prescribing forms and providing for their use;
- (g) prescribing further procedures respecting the conduct of matters coming before the Tribunal;
- (h) prescribing the form and manner in which a professional fund-raising corporation shall be bonded;
- (i) prescribing the amount which may be charged towards overhead in relation to direct expenses.

Commence-
ment

24. This Act comes into force on the day it receives Royal Assent.

Short title

25. The short title of this Act is *The Professional Fund-raising Corporations Control Act, 1980*.

BILL 90

An Act to control
Professional Fund-raising Corporations

1st Reading

June 3rd, 1980

2nd Reading

3rd Reading

MR. NEWMAN
(Windsor-Walkerville)

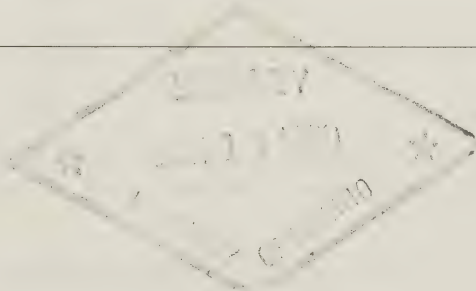
(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Legislative Assembly

**An Act to establish
an Environmental Magna Carta for Ontario**

Ms. BRYDEN



EXPLANATORY NOTE

The purpose of the Bill is to provide an environmental magna carta for Ontario. The Bill permits an action to be brought in Ontario courts to recover damages for the degradation and contamination of the environment. The Bill sets out other rights relating to access to courts and tribunals, freedom of information and public participation in environmental regulation. The Bill further provides for a study into methods for providing funds to persons and public interest groups for the purpose of ensuring that points of view representative of significant bodies of opinion are adequately represented in environmental proceedings.

BILL 91

1980

An Act to establish an Environmental Magna Carta for Ontario

WHEREAS every person has a right to clean air, pure water and a healthy environment; and whereas it is the duty of the State to ensure that these rights are protected and that the natural, scenic and aesthetic values of the environment are preserved; and whereas there is a public trust to protect the environment and all the living species that inhabit it for the benefit of present and future generations;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

INTERPRETATION AND PURPOSE

1. In this Act,

Interpre-
tation

- (a) "Board" means the Environmental Assessment Board established under *The Environmental Assessment Act*, 1975, c. 69 1975;
- (b) "contaminant" means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from the activities of man which may,
 - (i) impair the quality of the environment or the public trust therein for any use that can be made of it,
 - (ii) cause injury or damage to property or to plant or animal life,
 - (iii) cause harm or material discomfort to any person,

- (iv) adversely affect the health or impair the safety of any person, or
- (v) render any property or plant or animal life unfit for use by man,

and "contamination" has a corresponding meaning;

- (c) "degradation" refers to any destruction or significant decrease in the quality of the environment or the public trust therein other than a change resulting from contamination and "degrade" has a corresponding meaning;

- (d) "environment" means,

- (i) air, land or water,
- (ii) plant and animal life, including man,
- (iii) the social, economic and cultural conditions that influence the life of man or a community,
- (iv) any building, structure, machine or other device or thing made by man,
- (v) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from the activities of man, or
- (vi) any part or combination of the foregoing and the inter-relationships between any two or more of them,

in or of Ontario;

- (e) "instrument" means any licence, permit, approval, certificate of approval, program approval, control order or other order made under an Act listed in the Schedule;
- (f) "Minister" means the Minister of the Environment;
- (g) "public trust" means the collective interest of residents of the Province of Ontario in the quality of the environment and the protection thereof and the heritage therein for future generations;
- (h) "regulation" means a regulation made under an Act listed in the Schedule to this Act.

2.—(1) Every person in Ontario has a right to the protection of his environment from contamination and degradation regardless of his proprietary or pecuniary interest in it. Substantive right

(2) Ontario's public lands, waters and natural resources are the common property of all the people, including generations yet to come, and as trustee of those lands, waters and resources, the Government of Ontario shall conserve and maintain them for the benefit of present and future generations. Idem

PART II

ACCESS TO COURTS AND TRIBUNALS

3.—(1) Where an activity has contaminated or degraded or is contaminating or degrading the environment, any person may commence an action in a court in Ontario for damages against any person who is responsible for the activity. Cause of action

(2) No person shall be prohibited from commencing an action under subsection 1 by reason only that the person is not able to show any greater or different right, harm or interest than that of other members of the public or any pecuniary or proprietary right or interest in the subject-matter of the proceedings. Standing

(3) It is not a defence to an action under this section that the defendant complied with a standard or an instrument set or issued under an Act listed in the Schedule or that the defendant is subject to a program approval or control order or other instrument. Defences

4. In proceedings under this Act, the onus is upon the defendant to prove that the activity that constitutes the subject-matter of the proceedings does not contaminate or degrade the environment. Onus of proof

5. Where it is established in an action commenced under this Act, that the activity of the defendant has contaminated or degraded or is contaminating or degrading the environment, a court may grant an interim or permanent injunction, order the defendant to remedy any damage caused by his activity, award damages, impose conditions on the defendant or make such other order as the court may consider necessary. Remedies

6. Whenever a proceeding before any board, tribunal, commission or court, or any appeal or review thereof, is authorized under the provisions of this Act or an Act listed in the Schedule, the board, tribunal, commission or court may permit any person to join as a party or intervenor to the proceeding, appeal or review Parties, etc.

as the board, tribunal, commission or court may consider appropriate having regard to the purpose of this Act.

Class
actions

7.—(1) In an action under this Act, a court may, by order, permit one or more persons to act as representatives of a class of persons where, in the opinion of the court,

- (a) the claims of the representative party are typical of the claims of the class;
- (b) the questions of law or fact common to the members of the class predominate over any questions affecting only individual members;
- (c) a class action is superior to other available methods for the fair and efficient adjudication of the controversy; and
- (d) the representative party is acting in good faith and it is *prima facie* in the interests of the class that the action be maintained as a class action.

Judgment

(2) The court may provide in the judgment of a class action for subsequent determination of the amount and distribution of damages assessed against the defendant.

PART III

FREEDOM OF INFORMATION

Right to
information

8.—(1) Every person has the right to obtain from any minister any information available in the minister's ministry concerning the quantity, quality or concentration of contaminants emitted, issued, discharged or deposited by any source of contamination or degradation.

Right to
examine

(2) A minister referred to in subsection 1 shall permit any person who applies therefor to examine any licence, permit, approval, certificate of approval, provisional certificate of approval, control order or other order, notice of intention to issue a control order, program approval, provisional certificate of approval, notice of violation of an Act and any information in support of any such document, and, on payment of a fee not to exceed ten cents per page, the person shall be provided with a copy thereof.

Idem

(3) A minister shall permit any person who applies therefor to examine any report concerning any test, observation, inspection or analysis relating to the environment carried out by or under his

authority, and, on payment of a fee not to exceed ten cents per page, the person shall be provided with a copy thereof.

(4) Notwithstanding subsections 2 and 3, a minister may refuse an application under this section where, in the opinion of the minister, the release of the information, Where disclosure may be refused

- (a) would be detrimental to the security of Ontario or Canada;
- (b) would reveal trade secrets or prejudice commercial competition;
- (c) would constitute an unwarranted invasion of personal privacy;
- (d) would prejudice an investigation or inquiry in the administration of justice;
- (e) would prejudice contractual negotiations;
- (f) would result in serious financial loss to a person or association.

(5) Where a minister refuses an application under this section, the minister shall cause a notice of the refusal to be sent to the person who made the application and the notice shall set out the reasons for the refusal. Notice of refusal

(6) Where the Minister refuses to permit the release of information under subsection 4, the person who made the application may apply to a judge of the High Court, within fifteen days after receiving the notice of refusal, for an order determining whether or not the information should be disclosed and, upon completion of a hearing of the matter, the judge may make such order as the judge considers appropriate in the circumstances. Appeal

(7) The Minister, in an appeal under subsection 6, may file a statement of particulars in a sealed envelope with the judge in support of the Minister's refusal. Sealed statement of particulars

(8) At any stage in the proceedings, the judge may order that the statement of particulars be resealed or disclosed in whole or in part to the other party or otherwise dealt with as the judge thinks fit. Idem

(9) In an appeal under subsection 6, the onus of establishing that access to the information should be refused is on the minister concerned. Onus

Release of
documents by
Lieutenant
Governor in
Council

(10) Notwithstanding subsection 4, the Lieutenant Governor in Council may order the release of a public document that is exempt where the release of the document is in the public interest.

PART IV

PUBLIC PARTICIPATION

Interpre-
tation

9.—(1) In this section,

(a) “appropriate board” means any board, tribunal or commission established by an Act listed in the Schedule empowered to hold hearings with respect to a matter relating to such Act, and where no such board exists, the Board;

(b) “proper authority” means any authority designated by an Act listed in the Schedule empowered to issue any instrument pursuant to any such Act.

Notice of
proposed
instrument

(2) Notwithstanding any other Act, no instrument shall have force and effect unless the proper authority has given notice of the proposed provisions of the instrument by publication in *The Ontario Gazette* and in one newspaper having general circulation throughout the community or communities affected by the proposed instrument.

Submissions

(3) Any person may, within sixty days of the giving of notice or within such longer time as may be stated in the notice, make written submissions to the proper authority with respect to the proposed provisions of the instrument and may, by written notice to the proper authority, request a hearing by the appropriate board with respect to the proposed provisions of the instrument.

Hearing

(4) Where the proper authority has received notice of a request for a hearing, it shall refer the matter to the appropriate board and the appropriate board shall hold a hearing concerning the matter unless, in the opinion of the authority, the request is not made in good faith or is frivolous.

Issuance of
proposed
instrument

(5) Where no person requests a hearing under subsection 3, with respect to the proposed provisions of the instrument, the proper authority may issue the proposed instrument but the proposed instrument shall not be issued before ten days after the final date for filing a notice requesting a hearing have elapsed.

Idem

(6) Upon completion of a hearing under subsection 4, the appropriate board shall make a report concerning the matter to the proper authority and the proper authority, after taking into

consideration the recommendations of the appropriate board, may issue the proposed instrument in the original or an amended form.

(7) Any person may make an application to the Board requesting the Board to review any existing instrument having regard to the adequacy of the instrument to protect the environment and the public trust therein from contamination or degradation, especially in the light of technological advances that can be applied in the Province of Ontario and the Board shall hear the application where a *prima facie* case has been made that the instrument should be amended or revoked. Review of instrument

(8) The Board shall hold a preliminary hearing to determine whether a *prima facie* case has been made in an application under subsection 7 unless the Board is of the opinion that the application is not made in good faith or is frivolous. Preliminary hearing

(9) Where the Board decides not to hold a preliminary hearing under subsection 8, or where the Board decides that a *prima facie* case has not been made under subsection 7, the Board shall give notice of its decision to the person making the application, together with written reasons therefor, and an appeal of the Board's decision lies to a judge of the Supreme Court of Ontario. Notice

(10) The proper authority may, in an emergency situation, issue an instrument that it is empowered to issue pursuant to an Act listed in the Schedule without complying with the other provisions of this section but, where the authority issues an instrument in an emergency situation, the authority shall take steps to comply with the provisions of this section within sixty days of the date on which the instrument was issued. Emergencies

PART V

PUBLIC INTEREST ACTIVITIES

10.—(1) To ensure that points of view representative of significant bodies of opinion are adequately presented, the Board shall undertake a study of methods for providing funds to persons and public interest groups who engage in proceedings for the purpose of protecting and conserving the environment including proceedings authorized under this Act and the study shall include recommendations concerning criteria for the allocation of funds amongst eligible persons and groups and recommendations of rules governing the reporting of expenditures by these persons or groups. Study of public funding for intervenors

(2) The Board shall report to the Minister within one year of the day on which this Act comes into force concerning the study Report

referred to in subsection 1 and the Minister shall lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Costs

11. Where a person or public interest group raises a matter of importance relating to the protection and conservation of the environment, a judge shall not award costs against the person or group notwithstanding that the person or group is not successful in the proceeding.

No discipline,
dismissal,
etc.,
by employer

12.—(1) No employer shall,

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose any penalty upon an employee; or
- (d) intimidate or coerce an employee,

because the employee has reported or proposes to report to the appropriate authority an act that contaminates or degrades the environment.

Penalty
for
offence

(2) Where an employer is convicted of an offence under subsection 1, the provincial judge making the conviction shall, in addition to the penalty, order what action the employer shall take or what the employer shall refrain from doing and such order may include the reinstatement in employment of the employee with compensation for loss of wages and other benefits to be assessed against the employer.

Offence

(3) Every person who contravenes subsection 1 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than six months, or to both.

PART VI

MISCELLANEOUS

Common law
remedies
preserved

13. Nothing herein contained shall be construed so as to repeal, remove or reduce any existing remedy available at law to any person.

Conflict
1971, c. 86

14. Where a conflict appears between any provision of this Act and a provision in any other Act, including *The Environmental Protection Act, 1971*, the provision of this Act shall prevail.

15. This Act binds the Crown.

Crown

16. This Act comes into force on the day it receives Royal Assent. Commence-
ment

17. The short title of this Act is *The Environmental Magna Carta Act, 1980*. Short title

SCHEDULE

The Conservation Authorities Act

The Drainage Act, 1975

The Environmental Assessment Act, 1975

The Environmental Protection Act, 1971

The Mining Act

The Niagara Escarpment Planning and Development Act, 1973

The Ontario Water Resources Act

The Pesticides Act, 1973

The Pits and Quarries Control Act, 1971

The Planning Act

BILL 91

An Act to establish
an Environmental Magna Carta
for Ontario

1st Reading

June 3rd, 1980

2nd Reading

3rd Reading

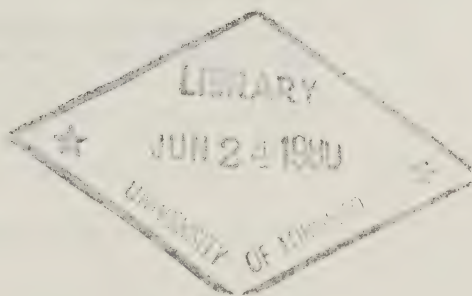
MS. BRYDEN

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

**An Act to provide for Municipal Hydro-Electric Service in
certain area municipalities in The Regional Municipality of
Ottawa-Carleton**

THE HON. R. WELCH
Minister of Energy



TORONTO

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EXPLANATORY NOTES

The Bill establishes new hydro-electric commissions for the municipalities of Goulbourn and Kanata.

A transitional period is provided before the new commissions become fully operational.

The members of each commission will be the mayor of the area municipality and additional members qualified as municipal electors in the municipality.

The council of each area municipality will determine whether after November 30, 1982, the members of its commission should be elected or appointed.

All customers in Kanata will be supplied with power by the new commission.

Customers in Goulbourn now supplied with power by Ontario Hydro will continue to be supplied by Ontario Hydro until the council of the area municipality, with the consent of Ontario Hydro, directs the new commission to supply power in all areas of the municipality.

Customers in Cumberland will continue to be supplied by Ontario Hydro until the Cumberland council, with the consent of Ontario Hydro, establishes a commission to supply power in all areas of the municipality.

In the interim, the councils of Cumberland and Goulbourn are required to review the supply of power at least once in every three years.

Provision is made for the transfer of employees and the protection of their salaries and benefits.

Hydro-electric service in the municipalities of Gloucester, Nepean, Osgoode, Ottawa, Rideau, Rockcliffe Park, Vanier and West Carleton is not affected.

BILL 92

1980

An Act to provide for Municipal Hydro-Electric Service in certain area municipalities in The Regional Municipality of Ottawa-Carleton

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "accumulated net retail equity" means the portion of equity accumulated through debt retirement appropriations recorded for the Rural Power District relating to Ontario Hydro's rural retail system plus the portion of the balance recorded for customers in the Stabilization of Rates and Contingencies Account, in the books of Ontario Hydro;
- (b) "area municipality" means the municipality or corporation of the Township of Cumberland, the Township of Goulbourn or the City of Kanata;
- (c) "Minister" means the Minister of Intergovernmental Affairs;
- (d) "municipal commission" means a hydro-electric commission or public utilities commission entrusted with the control and management of works for the retail distribution and supply of power in the whole or any part of an area municipality immediately before the coming into force of this Act and established or deemed to be established under Part III of *The Public Utilities Act*;
- (e) "power" means electrical power and includes electrical energy;
- (f) "regulations" means the regulations made under this Act;
- (g) "retail", when used in relation to the distribution and supply of power, refers to the distribution and supply of

R.S.O. 1970,
c. 390

power at voltages less than 50 kilovolts, but does not refer to works located within a transformer station that transform power from voltages greater than 50 kilovolts to voltages less than 50 kilovolts.

Commissions
established

2.—(1) On the day this Act comes into force, a hydro-electric commission for each of the Township of Goulbourn and the City of Kanata is hereby established.

Application
of
R.S.O. 1970,
cc. 390, 354

(2) Each commission established by subsection 1 shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*.

Names of
commissions

(3) Each commission established by subsection 1 shall be known by the name set out below that relates to the area municipality in respect of which the commission is established:

1. Goulbourn Hydro-Electric Commission.
2. Kanata Hydro-Electric Commission.

Composition

1977, c. 62

(4) Each commission established by subsection 1 shall consist of the mayor of the area municipality in respect of which the commission is established and additional members who are qualified electors under *The Municipal Elections Act, 1977* in the area municipality.

When area
municipality
may deter-
mine size of
commission

(5) Except as otherwise provided in this Act, the council of each area municipality shall determine by by-law whether the number of additional members of the commission established by subsection 1 in respect of the area municipality shall be two or four.

First
commission,
Goulbourn

(6) For the term expiring with the 30th day of November, 1982, the Goulbourn Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Township of Goulbourn and the following additional members who shall be appointed by the council of the Township of Goulbourn:

1. Two members of the Hydro-Electric Commission of the Village of Richmond as it existed immediately before the coming into force of this Act.
2. Two persons who reside outside the part of the Township of Goulbourn supplied with power by a municipal commission immediately before the coming into force of this Act.

First
commission,
Kanata

(7) For the term expiring with the 30th day of November 1982, the Kanata Hydro-Electric Commission established by subsection

1 shall consist of the mayor of the City of Kanata and four additional members who shall be appointed by the council of the City of Kanata.

(8) Where this section provides that one or more members of a municipal commission are to be additional members for a term specified by this section and the number of such members who are qualified electors under *The Municipal Elections Act, 1977* is less than the required number of additional members, the council of the area municipality in respect of which the commission was established under subsection 1 shall appoint an additional member or additional members so that there will be the required number of additional members of the corporation.

Additional
members
of first
commission
1977, c. 62

(9) For terms commencing after the 30th day of November, 1982, the additional members of each commission established by subsection 1 shall be elected by a general vote of the electors of the area municipality served by the commission, unless before the 1st day of July, 1982 the council of the area municipality provides by by-law that the additional members shall be appointed by the council.

Additional
members of
subsequent
commissions

(10) Members of the council of the area municipality served by a commission established by subsection 1 may be members of the commission, but the members of the council shall not form a majority of the commission.

Eligibility
of members
of council

(11) Subject to subsections 6 and 7, a member of a commission established by subsection 1 shall hold office for the same term as the members of council or until his successor is elected or appointed.

Term of
office

(12) The council of an area municipality served by a commission established by subsection 1 may, by by-law passed with the written consent of the mayor, appoint a delegate from among the members of the council to represent the mayor on the commission.

Delegates

(13) A resignation from the council of an area municipality of a member of the council who is a member of a commission established by subsection 1 shall be deemed to be a resignation from both the council and the commission.

Resignations

(14) The salaries of the members of the commissions established by subsection 1 for the term expiring with the 30th day of November, 1982 shall be fixed on or before the 1st day of October, 1980 in an amount that does not exceed the highest salary paid to members of the municipal commissions operating in the Regional Area within the meaning of *The Regional Municipality of Ottawa-Carleton Act* on the 1st day of January, 1980.

Salaries

R.S.O. 1970,
c. 407

Powers of
commissions
R.S.O. 1970,
c. 390

3.—(1) Except as herein provided, all the powers, rights, authorities and privileges that are conferred by *The Public Utilities Act* on a municipal corporation with respect to power shall, on and after the 1st day of January, 1981, be exercised on behalf of each area municipality by the commission established by section 2 in respect of the area municipality and not by the council of any municipality or any other person.

Right to
distribute
and supply
power

(2) Subject to sections 5 and 6, on and after the 1st day of January, 1981, each commission established by section 2 has the sole right to distribute and supply power within the area municipality in respect of which it is established.

Subsisting
contracts

R.S.O. 1970,
c. 354

(3) The right of a commission established by section 2 to distribute and supply power is subject to any subsisting contracts for the supply of power made under section 70 of *The Power Corporation Act*.

Contract
with
Ontario
Hydro

(4) A commission established by section 2 may contract with Ontario Hydro without electoral assent or other approval or authorization for the transmission and supply to the commission of power to be distributed and sold in the area municipality served by the commission.

Idem

R.S.O. 1970,
c. 284

(5) A contract under subsection 4 shall be deemed to be an agreement within the meaning of clause s of subsection 2 of section 293 of *The Municipal Act*.

Application
of
R.S.O. 1970,
c. 354

(6) Except where inconsistent with the provisions of this Act, the provisions of *The Power Corporation Act* applicable to a municipal corporation that has entered into a contract with Ontario Hydro for the distribution and supply of power to the municipal corporation apply to the commissions established by section 2.

Direct
customers

(7) With the consent of a commission established by section 2, Ontario Hydro may distribute and supply power directly to customers in the area municipality in respect of which the commission is established.

Establish-
ment of
commission
by by-law
in
Cumberland

4.—(1) The council of the Township of Cumberland, with the consent of Ontario Hydro, may establish by by-law a hydro-electric commission for the Township of Cumberland and, commencing on the date that the council shall specify in the by-law, the commission shall distribute and supply power in all of the Township of Cumberland.

Name of
commission

(2) The commission established under subsection 1 shall be known as the Cumberland Hydro-Electric Commission.

- (3) The Commission established under subsection 1, Composition
- (a) shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*; and R.S.O. 1970, cc. 390, 354
 - (b) shall consist of the mayor of the Township of Cumberland and additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Township of Cumberland. 1977, c. 62
- (4) The council of the Township of Cumberland shall appoint the first additional members of the commission established under subsection 1. First additional members
- (5) For terms after the first term, the additional members of the commission shall be elected by a general vote of the electors of the area municipality unless, before the completion of the first term of office of the members of the commission, the council of the Township of Cumberland provides by by-law that the additional members shall be appointed by the council. Subsequent additional members
- (6) Upon the establishment of a commission under subsection 1, Application of other sections of Act
- (a) subsections 5, 10, 11, 12 and 13 of section 2, section 3, subsection 2 of section 6 and sections 8 to 12 shall apply with necessary modifications and, for the purpose, the dates mentioned therein shall be deemed to be the dates that shall be specified in the by-law mentioned in subsection 1; and
 - (b) the commission, for the purposes of clause *a*, shall be deemed to be a commission established by section 2.
- (7) Until such time as the power conferred by subsection 1 has been exercised, Review of distribution and supply of power
- (a) the council of the Township of Cumberland shall review the distribution and supply of power within the area municipality at least once in every three years, and shall determine by resolution whether or not it is financially feasible to exercise the power conferred by subsection 1; and
 - (b) where the council determines as provided in clause *a* that it is financially feasible, the council shall exercise the power conferred by subsection 1.

Supply of
power in
all areas
of municip-
ality of
Goulbourn

5.—(1) The council of the Township of Goulbourn, with the consent of Ontario Hydro and without the assent of the municipal electors, by by-law,

- (a) may direct the commission established by section 2 in respect of the municipality to commence on a day specified by the by-law the distribution and supply of power in all areas of the municipality and on the specified day sections 8 and 12 shall apply with necessary modifications to the assets and employees of Ontario Hydro in the municipality; or
- (b) may dissolve the commission established by section 2 in respect of the municipality on a day specified by the by-law and on the specified day,
 - (i) all assets under the control and management of and all liabilities of the commission, and all debentures issued in respect of the distribution and supply of power in the municipality are, without compensation, assets and liabilities of Ontario Hydro, and
 - (ii) Ontario Hydro shall commence to distribute and supply power in all areas of the municipality.

Review of
distribution
and supply
of power

(2) Until such time as the power conferred by subsection 1 has been exercised,

- (a) the council of the Township of Goulbourn shall review the distribution and supply of power within the area municipality at least once in every three years and shall determine by resolution whether or not it is financially feasible to exercise the power conferred by subsection 1; and
- (b) where the council of the Township of Goulbourn determines as provided in clause *a* that it is financially feasible for the commission established under section 2 in respect of the area municipality to distribute and supply power in the entire area municipality, the council, subject to the approval of Ontario Hydro, shall exercise the power conferred by subsection 1.

Where
Ontario
Hydro to
distribute
and supply
power

6.—(1) Ontario Hydro shall continue to distribute and supply power in those areas of the townships of Cumberland and Goulbourn that Ontario Hydro served immediately before the coming into force of this Act.

(2) The duty of Ontario Hydro under subsection 1 to distribute and supply power in an area municipality is terminated, on the date specified in the by-law, by a by-law passed with the consent of Ontario Hydro by the council of the area municipality under subsection 1 of section 4 or clause *a* of subsection 1 of section 5.

Termination
of duty to
distribute
and supply
power

(3) Sections 8 and 12 do not apply in respect of the assets and employees of Ontario Hydro in an area municipality mentioned in subsection 1 until the passing of the by-law referred to in subsection 2.

Assets
and
employees

7.—(1) On the 1st day of January, 1981, all assets under the control and management of and all liabilities of the municipal commissions in each area municipality are, without compensation, assets under the control and management of and liabilities of the commission established by section 2 in respect of the area municipality.

Transfer of
assets and
liabilities

(2) Any of the assets, powers and responsibilities of the municipal commissions in an area municipality that pertain to the distribution and supply of power in the area municipality may be transferred by agreement before the 1st day of January, 1981 to the commission established by section 2 in respect of the area municipality.

Transitional

(3) Notwithstanding subsection 1, the Kanata Hydro-Electric Commission established by section 2 shall purchase from The Hydro-Electric Commission of the City of Nepean and The Hydro-Electric Commission of the City of Nepean shall sell to the Kanata Hydro-Electric Commission established by section 2 the assets pertaining to the retail distribution and supply of power in that portion of the City of Kanata supplied with power by The Hydro-Electric Commission of the City of Nepean immediately before the coming into force of this Act, and the purchase price shall be equal to the original cost of the assets less the sum of,

Purchase
by
Kanata
Hydro-
Electric
Commission

(a) the accumulated net retail equity of the customers supplied with power through the assets; and

(b) the accumulated depreciation associated with the assets.

8.—(1) On or before the 1st day of January, 1981, each commission established by section 2 shall purchase, on behalf of the area municipality served by the commission, and Ontario Hydro shall sell to the commission, the assets and liabilities of Ontario Hydro that pertain to the distribution and supply of power at retail in the area municipality.

Purchase
of retail
distribution
facilities
from
Ontario
Hydro

(2) The purchases mentioned in subsection 1 shall include equipment leased by Ontario Hydro to retail customers in the area

Leased
equipment

municipalities for the use of power supplied to the retail customers.

Purchase
price

(3) The purchase price shall be determined in accordance with the regulations and shall be equal to the original cost of the assets less the sum of,

- (a) the accumulated net retail equity of the customers supplied with power through the assets; and
- (b) the accumulated depreciation associated with the assets.

Interpre-
tation

9.—(1) In this section, “parties” means,

- (a) in the case of subsection 3 of section 7, the Kanata Hydro-Electric Commission established by section 2 and The Hydro-Electric Commission of the City of Nepean; and
- (b) in the case of section 8, Ontario Hydro and, in each case, the commission established by section 2.

Where price
to be
determined
by
arbitration

(2) If the purchase price under subsection 3 of section 7 or section 8 is not determined before the 1st day of January, 1982, either of the parties at any time thereafter may request that the purchase price be determined by a single arbitrator agreed on by the parties.

Application
of
R.S.O. 1970,
c. 25

(3) *The Arbitrations Act* applies where a request is made under subsection 2.

Vesting
of real
property

10.—(1) All real property transferred by section 7 to the control and management of a commission established by section 2 or otherwise acquired by or for the commission shall be held by the commission in trust for the area municipality served by the commission.

Disposition
of real
property

(2) Where a commission established by section 2 is of the opinion, and so declares by resolution, that any real property under its control and management is not required for its purposes, unless otherwise agreed upon by the commission and the area municipality served by the commission, the real property may be disposed of as follows:

1. In the event that the area municipality served by the commission wishes in good faith to use the real property for a municipal purpose, it shall compensate the commission for the real property at its actual cost, less accrued depreciation as shown on the books of the commission or the assessed value of the real property,

whichever is the greater, and when the municipality in good faith no longer wishes to use the real property for a municipal purpose, the area municipality may sell, lease or otherwise dispose of the real property without the assent of Ontario Hydro and may retain the proceeds of the sale, lease or disposition as municipal funds.

2. In the event that the municipality served by the commission does not wish to use the real property in accordance with paragraph 1, the commission shall, as soon as practicable, sell, lease or otherwise dispose of the real property at fair market value on behalf of the municipality and the net proceeds derived from the sale, lease or other disposition of the real property or the compensation paid therefor under this subsection shall be received by the commission and shall be applied in accordance with *The Public Utilities Act*.

R.S.O. 1970,
c. 390

11. Except as otherwise provided in this Act, sections 96 to 117 of *The Regional Municipality of Ottawa-Carleton Act* apply, with necessary modifications, to any borrowing for the purposes of a commission established by section 2.

Borrowing
R.S.O. 1970,
c. 407

12.—(1) In this section, “transfer date”, when used in respect of an employee of a municipal commission or Ontario Hydro, means the date on which a commission established by section 2 assumes liability for the payment of the wages or salary of the employee.

Interpretation

(2) On or before the 31st day of December, 1980, Ontario Hydro and each municipal commission that supplied power in an area municipality immediately before the coming into force of this Act shall designate those of their full-time employees who were employed in the distribution and supply of power in an area municipality on the 1st day of January, 1980, and who continued such employment until the 31st day of December, 1980 or until their transfer dates, as the case may be, and each commission established by section 2 shall offer employment to the employees designated in respect of the area municipality served by the commission.

Transfer of employees

(3) A person who accepts employment under this section is entitled to receive, for a period of one year commencing on the transfer date, a wage or salary not less than the wage or salary he was receiving on the day nine months before the transfer date.

Wages or salaries

(4) Each commission established by section 2 shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the day this Act comes into force, and a person who accepts employment under this section shall be

Participation in
O.M.E.R.S.

R.S.O. 1970,
c. 324

deemed to continue or to become a member of the System, as the case requires, on his transfer date, and *The Ontario Municipal Employees Retirement System Act* applies to such person as a member of the System.

Supple-
mentary
agreements

(5) When a person who accepts employment under this section with a commission established by section 2 is entitled immediately before this transfer date to the benefit of a supplementary agreement between the Ontario Municipal Employees Retirement Board and a municipal commission that, immediately before the coming into force of this Act, supplied power in an area municipality mentioned in subsection 1 of section 2, the commission established by section 2 shall assume, in respect of the person, all rights and obligations under the supplementary agreement as if the commission had been a party to the agreement in the place of the municipal commission.

Transfer of
pension
credits
from
Ontario
Hydro
Plan

(6) Where a person who accepts employment under this section is a contributor to The Pension and Insurance Fund of Ontario Hydro immediately before his transfer date, the present value of the pension earned by the person in The Pension and Insurance Fund of Ontario Hydro at the transfer date or the contributions of the person in the Fund with interest accumulated and credited to the person in the Fund, whichever is the greater, shall be transferred to the Ontario Municipal Employees Retirement Fund and the person shall be given credit in the Ontario Municipal Employees Retirement System for a period of service equal to the period of service for which he was given credit in The Ontario Hydro Pension and Insurance Plan.

Pension
guarantee

(7) Notwithstanding subsection 4, a person who accepts employment under this section with a commission established by section 2 and who,

- (a) was employed by Ontario Hydro immediately before his transfer date; and
- (b) continues in the employment of a municipal hydro-electric commission until he or his beneficiary becomes entitled to a pension benefit,

is entitled to at least the pension benefit he would have been entitled to under The Ontario Hydro Pension and Insurance Plan if his years of continuous service with the commission had been additional years of continuous service with Ontario Hydro and if there had been no change in the Plan after the 31st day of December, 1980, calculated on the basis of the wage or salary paid to the person by Ontario Hydro and the commission, and the cost, if any, of the pension benefit over the cost of the pension benefit to which the person is entitled under subsection 4 shall be apportioned and paid as provided by the regulations.

(8) A person who accepts employment under this section is entitled as a term of his employment to continue as a member of the group life insurance plan in which he was a member with his former employer until the effective date of a common group life insurance plan covering all eligible employees of his new employer. Group life insurance

(9) On or before the 31st day of December, 1982, each commission established by section 2 shall provide a common group life insurance plan covering all of the eligible employees of the commission, and the plan shall provide to any person accepting employment under this section, by option or otherwise, insurance coverage not inferior to the insurance coverage to which the person was entitled immediately before his transfer date. Idem

(10) A person who accepts employment under this section shall continue to enjoy the rights and benefits of sick leave entitlements or sick leave insurance provided by his former employer immediately before the transfer date until the new employer establishes a sick leave entitlement plan or sick leave insurance plan, and thereupon the person shall receive allowance or credit for any accrued sick leave rights or benefits. Sick leave

(11) Each commission established by section 2 shall continue the provision of life insurance to pensioners formerly employed by a municipal commission in the distribution and supply of power in the area municipality served by the commission established by section 2. Life insurance provided to pensioners

(12) Nothing in this section prevents an employer from terminating the employment of an employee for cause. Termination for cause

(13) Where, in the opinion of the Minister, a person who is designated or who accepts employment under this section experiences any difficulty or hardship with regard to life insurance benefits, pension rights, pension benefits or sick leave rights or benefits, the Minister by order may do anything necessary to remedy or alleviate such difficulty or hardship. Special circumstances

13. For the purposes of section 123 *f* of *The Regional Municipality of Ottawa-Carleton Act*, the 1st day of January, 1981 shall be deemed to be the date designated by the Minister and on that date the Hydro-Electric Commission of the Village of Richmond is dissolved, any by-laws establishing it shall be deemed to be repealed and the assent of the municipal electors is not required. Dissolution of Hydro-Electric Commission of Village of Richmond
R.S.O. 1970, c. 407

14. The Lieutenant Governor in Council may make regulations, Regulations

(a) for the purpose of subsection 3 of section 7 or subsection 3 of section 8 in respect of,

- (i) the method of determining the original cost of the assets or of any asset or of any part of any asset,
 - (ii) the allocation of the original cost of the assets or of any asset or of any part of any asset,
 - (iii) the method of determining the amount of any component of the accumulated net retail equity,
 - (iv) the allocation of the accumulated net retail equity or any component of the accumulated net retail equity,
 - (v) the method of calculating accumulated depreciation of any component of accumulated depreciation,
 - (vi) the allocation of accumulated depreciation or any component of accumulated depreciation,
 - (vii) the method of payment of the price of the assets;
- (b) for the purposes of subsection 7 of section 12 in respect of the apportionment of the excess cost of any benefit referred to in the subsection and the payment of the excess cost or any part thereof.

Commence-
ment

15. This Act comes into force on the day it receives Royal Assent.

Short title

16. The short title of this Act is *The Ottawa-Carleton Municipal Hydro-Electric Service Act, 1980*.

BILL 92

An Act to provide for Municipal Hydro-Electric Service in certain area municipalities in The Regional Municipality of Ottawa-Carleton

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

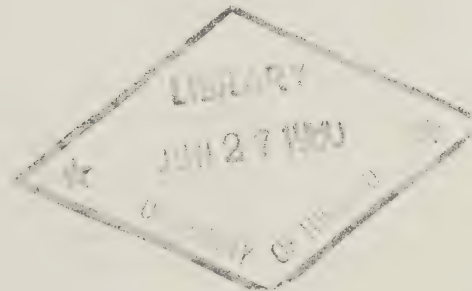
THE HON. R. WELCH
Minister of Energy

(Government Bill)

4TH SESSION, 31ST LEGISLATURE, ^TONTARIO
29 ELIZABETH II, 1980 *File*

An Act to provide for Municipal Hydro-Electric Service in
certain area municipalities in The Regional Municipality of
Ottawa-Carleton

THE HON. R. WELCH
Minister of Energy



BILL 92

1980

An Act to provide for Municipal Hydro-Electric Service in certain area municipalities in The Regional Municipality of Ottawa-Carleton

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “accumulated net retail equity” means the portion of equity accumulated through debt retirement appropriations recorded for the Rural Power District relating to Ontario Hydro’s rural retail system plus the portion of the balance recorded for customers in the Stabilization of Rates and Contingencies Account, in the books of Ontario Hydro;
- (b) “area municipality” means the municipality or corporation of the Township of Cumberland, the Township of Goulbourn or the City of Kanata;
- (c) “Minister” means the Minister of Intergovernmental Affairs;
- (d) “municipal commission” means a hydro-electric commission or public utilities commission entrusted with the control and management of works for the retail distribution and supply of power in the whole or any part of an area municipality immediately before the coming into force of this Act and established or deemed to be established under Part III of *The Public Utilities Act*;
- (e) “power” means electrical power and includes electrical energy;
- (f) “regulations” means the regulations made under this Act;
- (g) “retail”, when used in relation to the distribution and supply of power, refers to the distribution and supply of

R.S.O. 1970,
c. 390

power at voltages less than 50 kilovolts, but does not refer to works located within a transformer station that transform power from voltages greater than 50 kilovolts to voltages less than 50 kilovolts.

Commissions
established

2.—(1) On the day this Act comes into force, a hydro-electric commission for each of the Township of Goulbourn and the City of Kanata is hereby established.

Application
of
R.S.O. 1970,
cc. 390, 354

(2) Each commission established by subsection 1 shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*.

Names of
commissions

(3) Each commission established by subsection 1 shall be known by the name set out below that relates to the area municipality in respect of which the commission is established:

1. Goulbourn Hydro-Electric Commission.
2. Kanata Hydro-Electric Commission.

Composition

1977, c. 62

(4) Each commission established by subsection 1 shall consist of the mayor of the area municipality in respect of which the commission is established and additional members who are qualified electors under *The Municipal Elections Act, 1977* in the area municipality.

When area
municipality
may deter-
mine size of
commission

(5) Except as otherwise provided in this Act, the council of each area municipality shall determine by by-law whether the number of additional members of the commission established by subsection 1 in respect of the area municipality shall be two or four.

First
commission,
Goulbourn

(6) For the term expiring with the 30th day of November, 1982, the Goulbourn Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Township of Goulbourn and the following additional members who shall be appointed by the council of the Township of Goulbourn:

1. Two members of the Hydro-Electric Commission of the Village of Richmond as it existed immediately before the coming into force of this Act.
2. Two persons who reside outside the part of the Township of Goulbourn supplied with power by a municipal commission immediately before the coming into force of this Act.

First
commission,
Kanata

(7) For the term expiring with the 30th day of November 1982, the Kanata Hydro-Electric Commission established by subsection

1 shall consist of the mayor of the City of Kanata and four additional members who shall be appointed by the council of the City of Kanata.

(8) Where this section provides that one or more members of a municipal commission are to be additional members for a term specified by this section and the number of such members who are qualified electors under *The Municipal Elections Act, 1977* is less than the required number of additional members, the council of the area municipality in respect of which the commission was established under subsection 1 shall appoint an additional member or additional members so that there will be the required number of additional members of the corporation.

Additional
members
of first
commission
1977, c. 62

(9) For terms commencing after the 30th day of November, 1982, the additional members of each commission established by subsection 1 shall be elected by a general vote of the electors of the area municipality served by the commission, unless before the 1st day of July, 1982 the council of the area municipality provides by by-law that the additional members shall be appointed by the council.

Additional
members of
subsequent
commissions

(10) Members of the council of the area municipality served by a commission established by subsection 1 may be members of the commission, but the members of the council shall not form a majority of the commission.

Eligibility
of members
of council

(11) Subject to subsections 6 and 7, a member of a commission established by subsection 1 shall hold office for the same term as the members of council or until his successor is elected or appointed.

Term of
office

(12) The council of an area municipality served by a commission established by subsection 1 may, by by-law passed with the written consent of the mayor, appoint a delegate from among the members of the council to represent the mayor on the commission.

Delegates

(13) A resignation from the council of an area municipality of a member of the council who is a member of a commission established by subsection 1 shall be deemed to be a resignation from both the council and the commission.

Resignations

(14) The salaries of the members of the commissions established by subsection 1 for the term expiring with the 30th day of November, 1982 shall be fixed on or before the 1st day of October, 1980 in an amount that does not exceed the highest salary paid to members of the municipal commissions operating in the Regional Area within the meaning of *The Regional Municipality of Ottawa-Carleton Act* on the 1st day of January, 1980.

Salaries

R.S.O. 1970,
c. 407

Powers of
commissions
R.S.O. 1970,
c. 390

3.—(1) Except as herein provided, all the powers, rights, authorities and privileges that are conferred by *The Public Utilities Act* on a municipal corporation with respect to power shall, on and after the 1st day of January, 1981, be exercised on behalf of each area municipality by the commission established by section 2 in respect of the area municipality and not by the council of any municipality or any other person.

Right to
distribute
and supply
power

(2) Subject to sections 5 and 6, on and after the 1st day of January, 1981, each commission established by section 2 has the sole right to distribute and supply power within the area municipality in respect of which it is established.

Subsisting
contracts

R.S.O. 1970,
c. 354

(3) The right of a commission established by section 2 to distribute and supply power is subject to any subsisting contracts for the supply of power made under section 70 of *The Power Corporation Act*.

Contract
with
Ontario
Hydro

(4) A commission established by section 2 may contract with Ontario Hydro without electoral assent or other approval or authorization for the transmission and supply to the commission of power to be distributed and sold in the area municipality served by the commission.

Idem

R.S.O. 1970,
c. 284

(5) A contract under subsection 4 shall be deemed to be an agreement within the meaning of clause s of subsection 2 of section 293 of *The Municipal Act*.

Application
of
R.S.O. 1970,
c. 354

(6) Except where inconsistent with the provisions of this Act, the provisions of *The Power Corporation Act* applicable to a municipal corporation that has entered into a contract with Ontario Hydro for the distribution and supply of power to the municipal corporation apply to the commissions established by section 2.

Direct
customers

(7) With the consent of a commission established by section 2, Ontario Hydro may distribute and supply power directly to customers in the area municipality in respect of which the commission is established.

Establish-
ment of
commission
by by-law
in
Cumberland

4.—(1) The council of the Township of Cumberland, with the consent of Ontario Hydro, may establish by by-law a hydro-electric commission for the Township of Cumberland and, commencing on the date that the council shall specify in the by-law, the commission shall distribute and supply power in all of the Township of Cumberland.

Name of
commission

(2) The commission established under subsection 1 shall be known as the Cumberland Hydro-Electric Commission.

(3) The Commission established under subsection 1,

Composition

(a) shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*; and R.S.O. 1970, cc. 390, 354

(b) shall consist of the mayor of the Township of Cumberland and additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Township of Cumberland. 1977, c. 62

(4) The council of the Township of Cumberland shall appoint the first additional members of the commission established under subsection 1. First additional members

(5) For terms after the first term, the additional members of the commission shall be elected by a general vote of the electors of the area municipality unless, before the completion of the first term of office of the members of the commission, the council of the Township of Cumberland provides by by-law that the additional members shall be appointed by the council. Subsequent additional members

(6) Upon the establishment of a commission under subsection 1, Application of other sections of Act

(a) subsections 5, 10, 11, 12 and 13 of section 2, section 3, subsection 2 of section 6 and sections 8 to 12 shall apply with necessary modifications and, for the purpose, the dates mentioned therein shall be deemed to be the dates that shall be specified in the by-law mentioned in subsection 1; and

(b) the commission, for the purposes of clause *a*, shall be deemed to be a commission established by section 2.

(7) Until such time as the power conferred by subsection 1 has been exercised, Review of distribution and supply of power

(a) the council of the Township of Cumberland shall review the distribution and supply of power within the area municipality at least once in every three years, and shall determine by resolution whether or not it is financially feasible to exercise the power conferred by subsection 1; and

(b) where the council determines as provided in clause *a* that it is financially feasible, the council shall exercise the power conferred by subsection 1.

Supply of
power in
all areas
of municip-
ality of
Goulbourn

5.—(1) The council of the Township of Goulbourn, with the consent of Ontario Hydro and without the assent of the municipal electors, by by-law,

- (a) may direct the commission established by section 2 in respect of the municipality to commence on a day specified by the by-law the distribution and supply of power in all areas of the municipality and on the specified day sections 8 and 12 shall apply with necessary modifications to the assets and employees of Ontario Hydro in the municipality; or
- (b) may dissolve the commission established by section 2 in respect of the municipality on a day specified by the by-law and on the specified day,
 - (i) all assets under the control and management of and all liabilities of the commission, and all debentures issued in respect of the distribution and supply of power in the municipality are, without compensation, assets and liabilities of Ontario Hydro, and
 - (ii) Ontario Hydro shall commence to distribute and supply power in all areas of the municipality.

Review of
distribution
and supply
of power

(2) Until such time as the power conferred by subsection 1 has been exercised,

- (a) the council of the Township of Goulbourn shall review the distribution and supply of power within the area municipality at least once in every three years and shall determine by resolution whether or not it is financially feasible to exercise the power conferred by subsection 1; and
- (b) where the council of the Township of Goulbourn determines as provided in clause *a* that it is financially feasible for the commission established under section 2 in respect of the area municipality to distribute and supply power in the entire area municipality, the council, subject to the approval of Ontario Hydro, shall exercise the power conferred by subsection 1.

Where
Ontario
Hydro to
distribute
and supply
power

6.—(1) Ontario Hydro shall continue to distribute and supply power in those areas of the townships of Cumberland and Goulbourn that Ontario Hydro served immediately before the coming into force of this Act.

(2) The duty of Ontario Hydro under subsection 1 to distribute and supply power in an area municipality is terminated, on the date specified in the by-law, by a by-law passed with the consent of Ontario Hydro by the council of the area municipality under subsection 1 of section 4 or clause *a* of subsection 1 of section 5.

Termination
of duty to
distribute
and supply
power

(3) Sections 8 and 12 do not apply in respect of the assets and employees of Ontario Hydro in an area municipality mentioned in subsection 1 until the passing of the by-law referred to in subsection 2.

Assets
and
employees

7.—(1) On the 1st day of January, 1981, all assets under the control and management of and all liabilities of the municipal commissions in each area municipality are, without compensation, assets under the control and management of and liabilities of the commission established by section 2 in respect of the area municipality.

Transfer of
assets and
liabilities

(2) Any of the assets, powers and responsibilities of the municipal commissions in an area municipality that pertain to the distribution and supply of power in the area municipality may be transferred by agreement before the 1st day of January, 1981 to the commission established by section 2 in respect of the area municipality.

Transitional

(3) Notwithstanding subsection 1, the Kanata Hydro-Electric Commission established by section 2 shall purchase from The Hydro-Electric Commission of the City of Nepean and The Hydro-Electric Commission of the City of Nepean shall sell to the Kanata Hydro-Electric Commission established by section 2 the assets pertaining to the retail distribution and supply of power in that portion of the City of Kanata supplied with power by The Hydro-Electric Commission of the City of Nepean immediately before the coming into force of this Act, and the purchase price shall be equal to the original cost of the assets less the sum of,

Purchase
by
Kanata
Hydro-
Electric
Commission

(a) the accumulated net retail equity of the customers supplied with power through the assets; and

(b) the accumulated depreciation associated with the assets.

8.—(1) On or before the 1st day of January, 1981, each commission established by section 2 shall purchase, on behalf of the area municipality served by the commission, and Ontario Hydro shall sell to the commission, the assets and liabilities of Ontario Hydro that pertain to the distribution and supply of power at retail in the area municipality.

Purchase
of retail
distribution
facilities
from
Ontario
Hydro

(2) The purchases mentioned in subsection 1 shall include equipment leased by Ontario Hydro to retail customers in the area

Leased
equipment

municipalities for the use of power supplied to the retail customers.

Purchase
price

(3) The purchase price shall be determined in accordance with the regulations and shall be equal to the original cost of the assets less the sum of,

- (a) the accumulated net retail equity of the customers supplied with power through the assets; and
- (b) the accumulated depreciation associated with the assets.

Interpre-
tation

9.—(1) In this section, “parties” means,

- (a) in the case of subsection 3 of section 7, the Kanata Hydro-Electric Commission established by section 2 and The Hydro-Electric Commission of the City of Nepean; and
- (b) in the case of section 8, Ontario Hydro and, in each case, the commission established by section 2.

Where price
to be
determined
by
arbitration

(2) If the purchase price under subsection 3 of section 7 or section 8 is not determined before the 1st day of January, 1982, either of the parties at any time thereafter may request that the purchase price be determined by a single arbitrator agreed on by the parties.

Application
of
R.S.O. 1970,
c. 25

(3) *The Arbitrations Act* applies where a request is made under subsection 2.

Vesting
of real
property

10.—(1) All real property transferred by section 7 to the control and management of a commission established by section 2 or otherwise acquired by or for the commission shall be held by the commission in trust for the area municipality served by the commission.

Disposition
of real
property

(2) Where a commission established by section 2 is of the opinion, and so declares by resolution, that any real property under its control and management is not required for its purposes, unless otherwise agreed upon by the commission and the area municipality served by the commission, the real property may be disposed of as follows:

1. In the event that the area municipality served by the commission wishes in good faith to use the real property for a municipal purpose, it shall compensate the commission for the real property at its actual cost, less accrued depreciation as shown on the books of the commission or the assessed value of the real property,

whichever is the greater, and when the municipality in good faith no longer wishes to use the real property for a municipal purpose, the area municipality may sell, lease or otherwise dispose of the real property without the assent of Ontario Hydro and may retain the proceeds of the sale, lease or disposition as municipal funds.

2. In the event that the municipality served by the commission does not wish to use the real property in accordance with paragraph 1, the commission shall, as soon as practicable, sell, lease or otherwise dispose of the real property at fair market value on behalf of the municipality and the net proceeds derived from the sale, lease or other disposition of the real property or the compensation paid therefor under this subsection shall be received by the commission and shall be applied in accordance with *The Public Utilities Act*.

R.S.O. 1970,
c. 390

11. Except as otherwise provided in this Act, sections 96 to 117 of *The Regional Municipality of Ottawa-Carleton Act* apply, with necessary modifications, to any borrowing for the purposes of a commission established by section 2.

Borrowing
R.S.O. 1970,
c. 407

12.—(1) In this section, “transfer date”, when used in respect of an employee of a municipal commission or Ontario Hydro, means the date on which a commission established by section 2 assumes liability for the payment of the wages or salary of the employee.

Interpre-
tation

(2) On or before the 31st day of December, 1980, Ontario Hydro and each municipal commission that supplied power in an area municipality immediately before the coming into force of this Act shall designate those of their full-time employees who were employed in the distribution and supply of power in an area municipality on the 1st day of January, 1980, and who continued such employment until the 31st day of December, 1980 or until their transfer dates, as the case may be, and each commission established by section 2 shall offer employment to the employees designated in respect of the area municipality served by the commission.

Transfer
of
employees

(3) A person who accepts employment under this section is entitled to receive, for a period of one year commencing on the transfer date, a wage or salary not less than the wage or salary he was receiving on the day nine months before the transfer date.

Wages or
salaries

(4) Each commission established by section 2 shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the day this Act comes into force, and a person who accepts employment under this section shall be

Partici-
pation in
O. M. E. R. S.

R.S.O. 1970,
c. 324

deemed to continue or to become a member of the System, as the case requires, on his transfer date, and *The Ontario Municipal Employees Retirement System Act* applies to such person as a member of the System.

Supple-
mentary
agreements

(5) When a person who accepts employment under this section with a commission established by section 2 is entitled immediately before this transfer date to the benefit of a supplementary agreement between the Ontario Municipal Employees Retirement Board and a municipal commission that, immediately before the coming into force of this Act, supplied power in an area municipality mentioned in subsection 1 of section 2, the commission established by section 2 shall assume, in respect of the person, all rights and obligations under the supplementary agreement as if the commission had been a party to the agreement in the place of the municipal commission.

Transfer of
pension
credits
from
Ontario
Hydro
Plan

(6) Where a person who accepts employment under this section is a contributor to The Pension and Insurance Fund of Ontario Hydro immediately before his transfer date, the present value of the pension earned by the person in The Pension and Insurance Fund of Ontario Hydro at the transfer date or the contributions of the person in the Fund with interest accumulated and credited to the person in the Fund, whichever is the greater, shall be transferred to the Ontario Municipal Employees Retirement Fund and the person shall be given credit in the Ontario Municipal Employees Retirement System for a period of service equal to the period of service for which he was given credit in The Ontario Hydro Pension and Insurance Plan.

Pension
guarantee

(7) Notwithstanding subsection 4, a person who accepts employment under this section with a commission established by section 2 and who,

- (a) was employed by Ontario Hydro immediately before his transfer date; and
- (b) continues in the employment of a municipal hydro-electric commission until he or his beneficiary becomes entitled to a pension benefit,

is entitled to at least the pension benefit he would have been entitled to under The Ontario Hydro Pension and Insurance Plan if his years of continuous service with the commission had been additional years of continuous service with Ontario Hydro and if there had been no change in the Plan after the 31st day of December, 1980, calculated on the basis of the wage or salary paid to the person by Ontario Hydro and the commission, and the cost, if any, of the pension benefit over the cost of the pension benefit to which the person is entitled under subsection 4 shall be apportioned and paid as provided by the regulations.

(8) A person who accepts employment under this section is entitled as a term of his employment to continue as a member of the group life insurance plan in which he was a member with his former employer until the effective date of a common group life insurance plan covering all eligible employees of his new employer. Group life insurance

(9) On or before the 31st day of December, 1982, each commission established by section 2 shall provide a common group life insurance plan covering all of the eligible employees of the commission, and the plan shall provide to any person accepting employment under this section, by option or otherwise, insurance coverage not inferior to the insurance coverage to which the person was entitled immediately before his transfer date. Idem

(10) A person who accepts employment under this section shall continue to enjoy the rights and benefits of sick leave entitlements or sick leave insurance provided by his former employer immediately before the transfer date until the new employer establishes a sick leave entitlement plan or sick leave insurance plan, and thereupon the person shall receive allowance or credit for any accrued sick leave rights or benefits. Sick leave

(11) Each commission established by section 2 shall continue the provision of life insurance to pensioners formerly employed by a municipal commission in the distribution and supply of power in the area municipality served by the commission established by section 2. Life insurance provided to pensioners

(12) Nothing in this section prevents an employer from terminating the employment of an employee for cause. Termination for cause

(13) Where, in the opinion of the Minister, a person who is designated or who accepts employment under this section experiences any difficulty or hardship with regard to life insurance benefits, pension rights, pension benefits or sick leave rights or benefits, the Minister by order may do anything necessary to remedy or alleviate such difficulty or hardship. Special circumstances

13. For the purposes of section 123 *f* of *The Regional Municipality of Ottawa-Carleton Act*, the 1st day of January, 1981 shall be deemed to be the date designated by the Minister and on that date the Hydro-Electric Commission of the Village of Richmond is dissolved, any by-laws establishing it shall be deemed to be repealed and the assent of the municipal electors is not required. Dissolution of Hydro-Electric Commission of Village of Richmond R.S.O. 1970, c. 407

14. The Lieutenant Governor in Council may make regulations, Regulations

- (a) for the purpose of subsection 3 of section 7 or subsection 3 of section 8 in respect of,

- (i) the method of determining the original cost of the assets or of any asset or of any part of any asset,
 - (ii) the allocation of the original cost of the assets or of any asset or of any part of any asset,
 - (iii) the method of determining the amount of any component of the accumulated net retail equity,
 - (iv) the allocation of the accumulated net retail equity or any component of the accumulated net retail equity,
 - (v) the method of calculating accumulated depreciation of any component of accumulated depreciation,
 - (vi) the allocation of accumulated depreciation or any component of accumulated depreciation,
 - (vii) the method of payment of the price of the assets;
- (b) for the purposes of subsection 7 of section 12 in respect of the apportionment of the excess cost of any benefit referred to in the subsection and the payment of the excess cost or any part thereof.

Commence-
ment

15. This Act comes into force on the day it receives Royal Assent.

Short title

16. The short title of this Act is *The Ottawa-Carleton Municipal Hydro-Electric Service Act, 1980*.

BILL 92

An Act to provide for Municipal Hydro-Electric Service in certain area municipalities in The Regional Municipality of Ottawa-Carleton

1st Reading

June 5th, 1980

2nd Reading

June 18th, 1980

3rd Reading

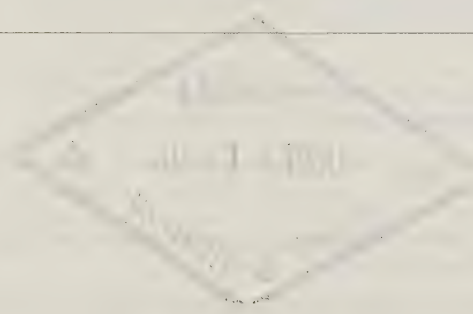
June 19th, 1980

THE HON. R. WELCH
Minister of Energy

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to provide for Municipal Hydro-Electric Service in
The Regional Municipality of Hamilton-Wentworth

THE HON. R. WELCH
Minister of Energy



TORONTO

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EXPLANATORY NOTE

The Bill establishes new hydro-electric commissions for the municipalities of Ancaster, Dundas, Flamborough and Stoney Creek.

A transitional period is provided before the new commissions become fully operational.

The members of each commission will be the mayor of the area municipality and additional members qualified as municipal electors in the municipality.

The council of each area municipality will determine whether after November 30, 1982, the members of its commission should be elected or appointed.

All customers in Dundas and Stoney Creek will be supplied with power by the new commissions.

Customers in Ancaster and Flamborough now supplied with power by Ontario Hydro will continue to be supplied by Ontario Hydro until the council of the area municipality, with the consent of Ontario Hydro, directs the new commission to supply power in all areas of the municipality.

Customers in Ancaster now supplied with power by the Lynden Hydro-Electric Commission will be supplied by the new Flamborough Hydro-Electric Commission until either the new Ancaster Hydro-Electric Commission commences to supply power in all areas of the Town of Ancaster or the new Flamborough Hydro-Electric Commission is dissolved by by-law passed with the consent of Ontario Hydro.

Customers in Glanbrook will continue to be supplied by Ontario Hydro until the Glanbrook council, with the consent of Ontario Hydro, establishes a commission to supply power in all areas of the municipality.

In the interim, the councils of Ancaster, Flamborough and Glanbrook are required to review the supply of power at least once in every three years.

Provision is made for the transfer of employees and the protection of their salaries and benefits.

Hydro-Electric service in the City of Hamilton is not affected but Hamilton Hydro-Electric Commission is removed from the application of section 135 of *The Regional Municipality of Hamilton-Wentworth Act, 1973* and placed under Part III of *The Public Utilities Act*.

BILL 93

1980

**An Act to provide for Municipal Hydro-Electric
Service in The Regional Municipality of
Hamilton-Wentworth**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “accumulated net retail equity” means the portion of equity accumulated through debt retirement appropriations recorded for the Rural Power District relating to Ontario Hydro’s rural retail system plus the portion of the balance recorded for customers in the Stabilization of Rates and Contingencies Account, in the books of Ontario Hydro;
- (b) “area municipality” means the municipality or corporation of the Town of Ancaster, the Town of Dundas, the Town of Stoney Creek, the Township of Flamborough and the Township of Glanbrook;
- (c) “Minister” means the Minister of Intergovernmental Affairs;
- (d) “municipal commission” means a hydro-electric commission or public utilities commission entrusted with the control and management of works for the retail distribution and supply of power in the Regional Area within the meaning of *The Regional Municipality of Hamilton-Wentworth Act, 1973* immediately before the coming into force of this Act and established or deemed to be established under Part III of *The Public Utilities Act*; 1973, c. 74
R.S.O. 1970,
c. 390
- (e) “power” means electrical power and includes electrical energy;
- (f) “regulations” means the regulations made under this Act;

- (g) "retail", when used in relation to the distribution and supply of power, refers to the distribution and supply of power at voltages less than 50 kilovolts, but does not refer to works located within a transformer station that transform power from voltages greater than 50 kilovolts to voltages less than 50 kilovolts.

Commissions
established

2.—(1) On the day this Act comes into force, a hydro-electric commission for each of the towns of Ancaster, Dundas and Stoney Creek and the Township of Flamborough is hereby established.

Application
of
R.S.O., 1970,
cc. 390, 354

(2) Each commission established by subsection 1 shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*.

Names of
commissions

(3) Each commission established by subsection 1 shall be known by the name set out below that relates to the area municipality in respect of which the commission is established:

1. Ancaster Hydro-Electric Commission.
2. Dundas Hydro-Electric Commission.
3. Flamborough Hydro-Electric Commission.
4. Stoney Creek Hydro-Electric Commission.

Composition

1977, c. 62

(4) Each commission established by subsection 1 shall consist of the mayor of the area municipality in respect of which the commission is established and additional members who are qualified electors under *The Municipal Elections Act, 1977* in the area municipality.

When area
municipality
may deter-
mine size of
commission

(5) Except as otherwise provided in this Act, the council of each area municipality shall determine by by-law whether the number of additional members of the commission established by subsection 1 in respect of the area municipality shall be two or four.

First
commission,
Ancaster

(6) For the term expiring with the 30th day of November, 1982, the Ancaster Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Town of Ancaster and the following additional members who shall be appointed by the council of the Town of Ancaster:

1. Two members of the Public Utilities Commission of the Township of Ancaster as it existed immediately before the coming into force of this Act.

2. Two persons who reside outside the part of the Town of Ancaster supplied with power by a municipal commission immediately before the coming into force of this Act.

(7) For the term expiring with the 30th day of November, 1982, the Dundas Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Town of Dundas and the following additional members who shall be appointed by the council of the Town of Dundas:

First
commission,
Dundas

1. Three members of the Dundas Public Utilities Commission as it existed immediately before the coming into force of this Act.
2. One person who resides outside the part of the Town of Dundas supplied with power by a municipal commission immediately before the coming into force of this Act.

(8) For the term expiring with the 30th day of November, 1982, the Flamborough Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Township of Flamborough and the following additional members who shall be appointed by the council of the Township of Flamborough:

First
commission,
Flamborough

1. One member of the Public Utilities Commission of the Village of Waterdown as it existed immediately before the coming into force of this Act.
2. One member of the Lynden Hydro-Electric Commission as it existed immediately before the coming into force of this Act.
3. Two persons who reside outside the part of the Township of Flamborough supplied with power by a municipal commission immediately before the coming into force of this Act.

(9) For the term expiring with the 30th day of November, 1982, the Stoney Creek Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Town of Stoney Creek and the following additional members who shall be appointed by the council of the Town of Stoney Creek:

First
commission,
Stoney Creek

1. Two members of the Hydro-Electric Commission of the Town of Stoney Creek as it existed immediately before the coming into force of this Act.
2. Two persons who reside outside the part of the Town of Stoney Creek supplied with power by a municipal com-

mission immediately before the coming into force of this Act.

Additional
members
of first
commission

1977, c. 62

(10) Where this section provides that one or more members of a municipal commission are to be additional members for a term specified by this section and the number of such members who are qualified electors under *The Municipal Elections Act, 1977* is less than the required number of additional members, the council of the area municipality in respect of which the commission was established under subsection 1 shall appoint an additional member or additional members so that there will be the required number of additional members of the corporation.

Subsequent
additional
members

(11) For terms commencing after the 30th day of November, 1982, the additional members of each commission established by subsection 1 shall be elected by a general vote of the electors of the area municipality served by the commission, unless before the 1st day of July, 1982 the council of the area municipality provides by by-law that the additional members shall be appointed by the council.

Eligibility
of members
of council

(12) Members of the council of the area municipality served by a commission established by subsection 1 may be members of the commission, but the members of the council shall not form a majority of the commission.

Term of
office

(13) Subject to subsections 6 to 9, a member of a commission established by subsection 1 shall hold office for the same term as the members of council or until his successor is elected or appointed.

Delegates

(14) The council of an area municipality served by a commission established by subsection 1 may, by by-law passed with the written consent of the mayor, appoint a delegate from among the members of the council to represent the mayor on the commission.

Salary
of first
commissions

1973, c. 74

(15) The salaries of the members of the commissions established by subsection 1 for the term expiring with the 30th day of November, 1982 shall be fixed on or before the 1st day of October, 1980 in an amount that does not exceed the highest salary paid to members of the municipal commissions operating in the Regional Area within the meaning of *The Regional Municipality of Hamilton-Wentworth Act, 1973* on the 1st day of January, 1980.

Resignations

(16) A resignation from the council of an area municipality of a member of the council who is a member of a commission established by subsection 1 shall be deemed to be a resignation from both the council and the commission.

Powers of
commissions
R.S.O. 1970,
c. 390

3.—(1) Except as herein provided, all the powers, rights, authorities and privileges that are conferred by *The Public*

Utilities Act on a municipal corporation with respect to power shall, on and after the 1st day of January, 1981, be exercised on behalf of each area municipality by the commission established by section 2 in respect of the area municipality and not by the council of any municipality or any other person.

(2) Subject to sections 5 and 6, on and after the 1st day of January, 1981, each commission established by section 2 has the sole right to distribute and supply power within the area municipality in respect of which it is established.

Right to
distribute
and supply
power

(3) The right of a commission established by section 2 to distribute and supply power is subject to any subsisting contracts for the supply of power made under section 70 of *The Power Corporation Act*.

Subsisting
contracts

(4) A commission established by section 2 may contract with Ontario Hydro without electoral assent or other approval or authorization for the transmission and supply to the commission of power to be distributed and sold in the area municipality served by the commission.

Contract
with
Ontario
Hydro

(5) A contract under subsection 4 shall be deemed to be an agreement within the meaning of clauses of subsection 2 of section 293 of *The Municipal Act*.

Idem

R.S.O. 1970,
c. 284

(6) Except where inconsistent with the provisions of this Act, the provisions of *The Power Corporation Act* applicable to a municipal corporation that has entered into a contract with Ontario Hydro for the distribution and supply of power to the municipal corporation apply to the commissions established by section 2.

Application of
R.S.O. 1970,
c. 354

(7) With the consent of a commission established by section 2, Ontario Hydro may distribute and supply power directly to customers in the area municipality in respect of which the commission is established.

Direct
customers

4.—(1) The council of the Township of Glanbrook, with the consent of Ontario Hydro, may establish by by-law a hydro-electric commission for the Township of Glanbrook and, commencing on the date that the council shall specify in the by-law, the commission shall distribute and supply power in all of the Township of Glanbrook.

Establish-
ment of
commission
by by-law in
Glanbrook

(2) The commission established under subsection 1 shall be known as the Glanbrook Hydro-Electric Commission.

Name of
commission

(3) The commission established under subsection 1,

Composition

- R.S.O. 1970,
cc. 390, 354
- (a) shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*; and
- 1977, c. 62
- (b) shall consist of the mayor of the Township of Glanbrook and additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Township of Glanbrook.
- First additional members
- (4) The council of the Township of Glanbrook shall appoint the first additional members of the commission established under subsection 1.
- Subsequent additional members
- (5) For terms after the first term, the additional members of the commission shall be elected by a general vote of the electors of the area municipality unless, before the completion of the first term of office of the members of the commission, the council of the Township of Glanbrook provides by by-law that the additional members shall be appointed by the council.
- Application of other sections of Act
- (6) Upon the establishment of a commission under subsection 1,
- (a) subsections 5, 12, 13, 14 and 16 of section 2, section 3, subsection 2 of section 6 and sections 8 to 12 shall apply with necessary modifications and, for the purpose, the dates mentioned therein shall be deemed to be the dates that shall be specified in the by-law mentioned in subsection 1; and
- (b) the commission, for the purposes of clause *a*, shall be deemed to be a commission established by section 2.
- Review of distribution and supply of power
- (7) Until such time as the power conferred by subsection 1 has been exercised,
- (a) the council of the Township of Glanbrook shall review the distribution and supply of power within the area municipality at least once in every three years, and shall determine by resolution whether or not it is financially feasible to exercise the power conferred by subsection 1; and
- (b) where the council determines as provided in clause *a* that it is financially feasible, the council shall exercise the power conferred by subsection 1.

5.—(1) The council of each of the Town of Ancaster and the Township of Flamborough, with the consent of Ontario Hydro and without the assent of the municipal electors, by by-law,

Supply of power in all areas of municipalities of Ancaster, Flamborough

- (a) may direct the commission established by section 2 in respect of the municipality to commence on a day specified by the by-law the distribution and supply of power in all areas of the municipality and on the specified day sections 8 and 12 shall apply with necessary modifications to the assets and employees of Ontario Hydro in the municipality; or
- (b) may dissolve the commission established by section 2 in respect of the municipality on a day specified by the by-law and on the specified day,
 - (i) all assets under the control and management of and all liabilities of the commission, and all debentures issued in respect of the distribution and supply of power in the municipality are, without compensation, assets and liabilities of Ontario Hydro, and
 - (ii) Ontario Hydro shall commence to distribute and supply power in all areas of the municipality.

(2) Until such time as the power conferred by subsection 1 has been exercised,

Review of distribution and supply of power

- (a) the council of each of the Town of Ancaster and the Township of Flamborough shall review the distribution and supply of power within their respective municipalities at least once in every three years and shall determine by resolution whether or not it is financially feasible to exercise the power conferred by subsection 1; and
- (b) where the council of the Town of Ancaster or the Township of Flamborough determines as provided in clause *a* that it is financially feasible for the commission established under section 2 in respect of the municipality to distribute and supply power in the entire municipality, the council, subject to the approval of Ontario Hydro, shall exercise the power conferred by subsection 1.

(3) The Flamborough Hydro-Electric Commission established by section 2 shall distribute and supply power to those customers in the Town of Ancaster to whom the Lynden Hydro-Electric Commission is distributing and supplying power as of the 31st day of December, 1980 until either,

Flamborough Hydro-Electric Commission, additional duty

- (a) the Ancaster Hydro-Electric Commission established by section 2 commences to distribute and supply power in all areas of the Town of Ancaster; or
- (b) the Flamborough Hydro-Electric Commission established by section 2 is dissolved,

as provided in subsection 1.

Where
Ontario
Hydro to
distribute
and supply
power

6.—(1) Ontario Hydro shall continue to distribute and supply power in those areas of the Town of Ancaster and the townships of Flamborough and Glanbrook that Ontario Hydro served immediately before the coming into force of this Act.

Termination
of duty to
distribute
and supply
power

(2) The duty of Ontario Hydro under subsection 1 to distribute and supply power in an area municipality is terminated, on the date specified in the by-law, by a by-law passed with the consent of Ontario Hydro by the council of the area municipality under subsection 1 of section 4 or clause *a* of subsection 1 of section 5.

Assets and
employees

(3) Sections 8 and 12 do not apply in respect of the assets and employees of Ontario Hydro in an area municipality until the passing of the by-law referred to in subsection 2.

Transfer of
assets and
liabilities

7.—(1) On the 1st day of January, 1981, all assets under the control and management of and all liabilities of the municipal commissions in each area municipality are, without compensation, assets under the control and management of and liabilities of the commission established by section 2 in respect of the area municipality.

Transitional

(2) Any of the assets, powers and responsibilities of the municipal commissions in an area municipality that pertain to the distribution and supply of power in the area municipality may be transferred by agreement before the 1st day of January, 1981 to the commission established by section 2 in respect of the area municipality.

Purchase
of retail
distribution
facilities
from
Ontario
Hydro

8.—(1) On or before the 1st day of January, 1981, each commission established by section 2 shall purchase, on behalf of the area municipality served by the commission, and Ontario Hydro shall sell to the commission, the assets and liabilities of Ontario Hydro that pertain to the distribution and supply of power at retail in the area municipality.

Leased
equipment

(2) The purchases mentioned in subsection 1 shall include equipment leased by Ontario Hydro to retail customers in the area municipalities for the use of power supplied to the retail customers.

(3) The purchase price shall be determined in accordance with the regulations and shall be equal to the original cost of the assets less the sum of,

Purchase price

- (a) the accumulated net retail equity of the customers supplied with power through the assets; and
- (b) the accumulated depreciation associated with the assets.

9.—(1) In this section, “parties” means Ontario Hydro and, in each case, the commission established by section 2.

Interpretation

(2) If the purchase price under section 8 is not determined before the 1st day of January, 1982, either of the parties at any time thereafter may request that the purchase price be determined by a single arbitrator agreed on by the parties.

Where price to be determined by arbitration

(3) *The Arbitrations Act* applies where a request is made under subsection 2.

Application of R.S.O. 1970, c. 25

10.—(1) All real property transferred by section 7 to the control and management of a commission established by section 2 or otherwise acquired by or for the commission shall be held by the commission in trust for the area municipality served by the commission.

Vesting of real property

(2) Where a commission established by section 2 is of the opinion, and so declares by resolution, that any real property under its control and management is not required for its purposes, unless otherwise agreed upon by the commission and the area municipality served by the commission, the real property may be disposed of as follows:

Disposition of real property

1. In the event that the area municipality served by the commission wishes in good faith to use the real property for a municipal purpose, it shall compensate the commission for the real property at its actual cost, less accrued depreciation as shown on the books of the commission or the assessed value of the real property, whichever is the greater, and when the municipality in good faith no longer wishes to use the real property for a municipal purpose, the area municipality may sell, lease or otherwise dispose of the real property without the assent of Ontario Hydro and may retain the proceeds of the sale, lease or disposition as municipal funds.
2. In the event that the municipality served by the commission does not wish to use the real property in accordance with paragraph 1, the commission shall, as soon as practicable, sell, lease or otherwise dispose of the real

property at fair market value on behalf of the municipality and the net proceeds derived from the sale, lease or other disposition of the real property or the compensation paid therefor under this subsection shall be received by the commission and shall be applied in accordance with *The Public Utilities Act*.

R.S.O. 1970,
c. 390

Borrowing
1973, c. 74

11. Except as otherwise provided in this Act, sections 92 to 113 of *The Regional Municipality of Hamilton-Wentworth Act, 1973* apply, with necessary modifications, to any borrowing for the purposes of a commission established by section 2.

Interpre-
tation

12.—(1) In this section, “transfer date”, when used in respect of an employee of a municipal commission or Ontario Hydro, means the date on which a commission established by section 2 assumes liability for the payment of the wages or salary of the employee.

Transfer of
employees

(2) On or before the 31st day of December, 1980, Ontario Hydro and each municipal commission that supplied power in an area municipality immediately before the coming into force of this Act shall designate those of their full-time employees who were employed in the distribution and supply of power in an area municipality on the 1st day of January, 1980, and who continued such employment until the 31st day of December, 1980 or until their transfer dates, as the case may be, and each commission established by section 2 shall offer employment to the employees designated in respect of the area municipality served by the commission.

Wages or
salaries

(3) A person who accepts employment under this section is entitled to receive, for a period of one year commencing on the transfer date, a wage or salary not less than the wage or salary he was receiving on the day nine months before the transfer date.

Participation
in O.M.E.R.S.

(4) Each commission established by section 2 shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the day this Act comes into force, and a person who accepts employment under this section shall be deemed to continue or to become a member of the System, as the case requires, on his transfer date, and *The Ontario Municipal Employees Retirement System Act* applies to such person as a member of the System.

R.S.O. 1970,
c. 324

Supple-
mentary
agreements

(5) When a person who accepts employment under this section with a commission established by section 2 is entitled immediately before this transfer date to the benefit of a supplementary agreement between the Ontario Municipal Employees Retirement Board and a municipal commission that, immediately before the

coming into force of this Act, supplied power in an area municipality mentioned in subsection 1 of section 2, the commission established by section 2 shall assume, in respect of the person, all rights and obligations under the supplementary agreement as if the commission had been a party to the agreement in the place of the municipal commission

(6) Where a person who accepts employment under this section is a contributor to The Pension and Insurance Fund of Ontario Hydro immediately before his transfer date, the present value of the pension earned by the person in The Pension and Insurance Fund of Ontario Hydro at the transfer date or the contributions of the person in the Fund with interest accumulated and credited to the person in the Fund, whichever is the greater, shall be transferred to the Ontario Municipal Employees Retirement Fund and the person shall be given credit in the Ontario Municipal Employees Retirement System for a period of service equal to the period of service for which he was given credit in The Ontario Hydro Pension and Insurance Plan.

Transfer of
pension credits
from
Ontario
Hydro Plan

(7) Notwithstanding subsection 4, a person who accepts employment under this section with a commission established by section 2 and who,

Pension
guarantee

- (a) was employed by Ontario Hydro immediately before his transfer date; and
- (b) continues in the employment of a municipal hydro-electric commission until he or his beneficiary becomes entitled to a pension benefit,

is entitled to at least the pension benefit he would have been entitled to under The Ontario Hydro Pension and Insurance Plan if his years of continuous service with the commission had been additional years of continuous service with Ontario Hydro and if there had been no change in the Plan after the 31st day of December, 1980, calculated on the basis of the wage or salary paid to the person by Ontario Hydro and the commission, and the cost, if any, of the pension benefit over the cost of the pension benefit to which the person is entitled under subsection 4 shall be apportioned and paid as provided by the regulations.

(8) A person who accepts employment under this section is entitled as a term of his employment to continue as a member of the group life insurance plan in which he was a member with his former employer until the effective date of a common group life insurance plan covering all eligible employees of his new employer.

Group life
insurance

Idem

(9) On or before the 31st day of December, 1982, each commission established by section 2 shall provide a common group life insurance plan covering all of the eligible employees of the commission, and the plan shall provide to any person accepting employment under this section, by option or otherwise, insurance coverage not inferior to the insurance coverage to which the person was entitled immediately before his transfer date.

Sick leave

(10) A person who accepts employment under this section shall continue to enjoy the rights and benefits of sick leave entitlements or sick leave insurance provided by his former employer immediately before the transfer date until the new employer establishes a sick leave entitlement plan or sick leave insurance plan, and thereupon the person shall receive allowance or credit for any accrued sick leave rights or benefits.

Life insurance provided to pensioners

(11) Each commission established by section 2 shall continue the provision of life insurance to pensioners formerly employed by a municipal commission in the distribution and supply of power in the area municipality served by the commission established by section 2.

Termination for cause

(12) Nothing in this section prevents an employer from terminating the employment of an employee for cause.

Special circumstances

(13) Where, in the opinion of the Minister, a person who is designated or who accepts employment under this section experiences any difficulty or hardship with regard to life insurance benefits, pension rights, pension benefits or sick leave rights or benefits, the Minister by order may do anything necessary to remedy or alleviate such difficulty or hardship.

Dissolution of existing commissions 1973, c. 74

13.—(1) For the purposes of section 135 of *The Regional Municipality of Hamilton-Wentworth Act, 1973* and except in respect of Hamilton Hydro-Electric Commission, the 1st day of January, 1981 is the date determined and the date designated by the Minister in respect of the Regional Area within the meaning of *The Regional Municipality of Hamilton-Wentworth Act, 1973*, and on that date the municipal commissions, other than Hamilton Hydro-Electric Commission, supplying only electrical power and energy in that area immediately before the coming into force of this Act are dissolved and any by-laws establishing them passed under sections 38 and 40 of *The Public Utilities Act* shall be deemed to be repealed and the assent of the municipal electors is not required.

R.S.O. 1970, c. 390

Hamilton Hydro-Electric Commission

(2) On and after the day this Act comes into force, section 135 of *The Regional Municipality of Hamilton-Wentworth Act, 1973* does not apply to Hamilton Hydro-Electric Commission and

that Commission is no longer a local board and is a commission to which Part III of *The Public Utilities Act* applies.

R.S.O. 1970,
c. 390

14. The Lieutenant Governor in Council may make regulations, Regulations

(a) for the purpose of subsection 3 of section 8 in respect of,

- (i) the method of determining the original cost of the assets or of any asset or of any part of any asset,
- (ii) the allocation of the original cost of the assets or of any asset or of any part of any asset,
- (iii) the method of determining the amount of any component of the accumulated net retail equity,
- (iv) the allocation of the accumulated net retail equity or any component of the accumulated net retail equity,
- (v) the method of calculating accumulated depreciation of any component of accumulated depreciation,
- (vi) the allocation of accumulated depreciation or any component of accumulated depreciation,
- (vii) the method of payment of the price of the assets;

(b) for the purposes of subsection 7 of section 12, in respect of the apportionment of the excess cost of any benefit referred to in the subsection and the payment of the excess cost or any part thereof.

15. This Act comes into force on the day it receives Royal Assent. Commence-
ment

16. The short title of this Act is *The Hamilton-Wentworth Municipal Hydro-Electric Service Act, 1980*. Short title

BILL 93

An Act to provide for Municipal Hydro-
Electric Service in The Regional
Municipality of Hamilton-Wentworth

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

THE HON. R. WELCH
Minister of Energy

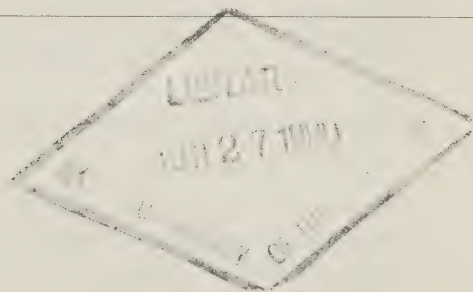
(Government Bill)

3
BILL 93

4TH SESSION, 31ST LEGISLATURE, ^TONTARIO
29 ELIZABETH II, 1980 *7 June 1980*

An Act to provide for Municipal Hydro-Electric Service in
The Regional Municipality of Hamilton-Wentworth

THE HON. R. WELCH
Minister of Energy



BILL 93

1980

**An Act to provide for Municipal Hydro-Electric
Service in The Regional Municipality of
Hamilton-Wentworth**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “accumulated net retail equity” means the portion of equity accumulated through debt retirement appropriations recorded for the Rural Power District relating to Ontario Hydro’s rural retail system plus the portion of the balance recorded for customers in the Stabilization of Rates and Contingencies Account, in the books of Ontario Hydro;
- (b) “area municipality” means the municipality or corporation of the Town of Ancaster, the Town of Dundas, the Town of Stoney Creek, the Township of Flamborough and the Township of Glanbrook;
- (c) “Minister” means the Minister of Intergovernmental Affairs;
- (d) “municipal commission” means a hydro-electric commission or public utilities commission entrusted with the control and management of works for the retail distribution and supply of power in the Regional Area within the meaning of *The Regional Municipality of Hamilton-Wentworth Act, 1973* immediately before the coming into force of this Act and established or deemed to be established under Part III of *The Public Utilities Act*; 1973, c. 74
R.S.O. 1970,
c. 390
- (e) “power” means electrical power and includes electrical energy;
- (f) “regulations” means the regulations made under this Act;

- (g) “retail”, when used in relation to the distribution and supply of power, refers to the distribution and supply of power at voltages less than 50 kilovolts, but does not refer to works located within a transformer station that transform power from voltages greater than 50 kilovolts to voltages less than 50 kilovolts.

Commissions
established

2.—(1) On the day this Act comes into force, a hydro-electric commission for each of the towns of Ancaster, Dundas and Stoney Creek and the Township of Flamborough is hereby established.

Application
of
R.S.O. 1970,
cc. 390, 354

(2) Each commission established by subsection 1 shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*.

Names of
commissions

(3) Each commission established by subsection 1 shall be known by the name set out below that relates to the area municipality in respect of which the commission is established:

1. Ancaster Hydro-Electric Commission.
2. Dundas Hydro-Electric Commission.
3. Flamborough Hydro-Electric Commission.
4. Stoney Creek Hydro-Electric Commission.

Composition

1977, c. 62

(4) Each commission established by subsection 1 shall consist of the mayor of the area municipality in respect of which the commission is established and additional members who are qualified electors under *The Municipal Elections Act, 1977* in the area municipality.

When area
municipality
may deter-
mine size of
commission

(5) Except as otherwise provided in this Act, the council of each area municipality shall determine by by-law whether the number of additional members of the commission established by subsection 1 in respect of the area municipality shall be two or four.

First
commission,
Ancaster

(6) For the term expiring with the 30th day of November, 1982, the Ancaster Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Town of Ancaster and the following additional members who shall be appointed by the council of the Town of Ancaster:

1. Two members of the Public Utilities Commission of the Township of Ancaster as it existed immediately before the coming into force of this Act.

2. Two persons who reside outside the part of the Town of Ancaster supplied with power by a municipal commission immediately before the coming into force of this Act.

(7) For the term expiring with the 30th day of November, 1982, the Dundas Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Town of Dundas and the following additional members who shall be appointed by the council of the Town of Dundas: First commission, Dundas

1. Three members of the Dundas Public Utilities Commission as it existed immediately before the coming into force of this Act.
2. One person who resides outside the part of the Town of Dundas supplied with power by a municipal commission immediately before the coming into force of this Act.

(8) For the term expiring with the 30th day of November, 1982, the Flamborough Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Township of Flamborough and the following additional members who shall be appointed by the council of the Township of Flamborough: First commission, Flamborough

1. One member of the Public Utilities Commission of the Village of Waterdown as it existed immediately before the coming into force of this Act.
2. One member of the Lynden Hydro-Electric Commission as it existed immediately before the coming into force of this Act.
3. Two persons who reside outside the part of the Township of Flamborough supplied with power by a municipal commission immediately before the coming into force of this Act.

(9) For the term expiring with the 30th day of November, 1982, the Stoney Creek Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Town of Stoney Creek and the following additional members who shall be appointed by the council of the Town of Stoney Creek: First commission, Stoney Creek

1. Two members of the Hydro-Electric Commission of the Town of Stoney Creek as it existed immediately before the coming into force of this Act.
2. Two persons who reside outside the part of the Town of Stoney Creek supplied with power by a municipal com-

mission immediately before the coming into force of this Act.

Additional
members
of first
commission
1977, c. 62

(10) Where this section provides that one or more members of a municipal commission are to be additional members for a term specified by this section and the number of such members who are qualified electors under *The Municipal Elections Act, 1977* is less than the required number of additional members, the council of the area municipality in respect of which the commission was established under subsection 1 shall appoint an additional member or additional members so that there will be the required number of additional members of the corporation.

Subsequent
additional
members

(11) For terms commencing after the 30th day of November, 1982, the additional members of each commission established by subsection 1 shall be elected by a general vote of the electors of the area municipality served by the commission, unless before the 1st day of July, 1982 the council of the area municipality provides by by-law that the additional members shall be appointed by the council.

Eligibility
of members
of council

(12) Members of the council of the area municipality served by a commission established by subsection 1 may be members of the commission, but the members of the council shall not form a majority of the commission.

Term of
office

(13) Subject to subsections 6 to 9, a member of a commission established by subsection 1 shall hold office for the same term as the members of council or until his successor is elected or appointed.

Delegates

(14) The council of an area municipality served by a commission established by subsection 1 may, by by-law passed with the written consent of the mayor, appoint a delegate from among the members of the council to represent the mayor on the commission.

Salary
of first
commissions

(15) The salaries of the members of the commissions established by subsection 1 for the term expiring with the 30th day of November, 1982 shall be fixed on or before the 1st day of October, 1980 in an amount that does not exceed the highest salary paid to members of the municipal commissions operating in the Regional Area within the meaning of *The Regional Municipality of Hamilton-Wentworth Act, 1973* on the 1st day of January, 1980.

1973, c. 74

Resignations

(16) A resignation from the council of an area municipality of a member of the council who is a member of a commission established by subsection 1 shall be deemed to be a resignation from both the council and the commission.

Powers of
commissions
R.S.O. 1970,
c. 390

3.—(1) Except as herein provided, all the powers, rights, authorities and privileges that are conferred by *The Public*

Utilities Act on a municipal corporation with respect to power shall, on and after the 1st day of January, 1981, be exercised on behalf of each area municipality by the commission established by section 2 in respect of the area municipality and not by the council of any municipality or any other person.

(2) Subject to sections 5 and 6, on and after the 1st day of January, 1981, each commission established by section 2 has the sole right to distribute and supply power within the area municipality in respect of which it is established.

Right to
distribute
and supply
power

(3) The right of a commission established by section 2 to distribute and supply power is subject to any subsisting contracts for the supply of power made under section 70 of *The Power Corporation Act*.

Subsisting
contracts

(4) A commission established by section 2 may contract with Ontario Hydro without electoral assent or other approval or authorization for the transmission and supply to the commission of power to be distributed and sold in the area municipality served by the commission.

Contract
with
Ontario
Hydro

(5) A contract under subsection 4 shall be deemed to be an agreement within the meaning of clause s of subsection 2 of section 293 of *The Municipal Act*.

Idem

R.S.O. 1970,
c. 284

(6) Except where inconsistent with the provisions of this Act, the provisions of *The Power Corporation Act* applicable to a municipal corporation that has entered into a contract with Ontario Hydro for the distribution and supply of power to the municipal corporation apply to the commissions established by section 2.

Application of
R.S.O. 1970,
c. 354

(7) With the consent of a commission established by section 2, Ontario Hydro may distribute and supply power directly to customers in the area municipality in respect of which the commission is established.

Direct
customers

4.—(1) The council of the Township of Glanbrook, with the consent of Ontario Hydro, may establish by by-law a hydro-electric commission for the Township of Glanbrook and, commencing on the date that the council shall specify in the by-law, the commission shall distribute and supply power in all of the Township of Glanbrook.

Establish-
ment of
commission
by by-law in
Glanbrook

(2) The commission established under subsection 1 shall be known as the Glanbrook Hydro-Electric Commission.

Name of
commission

(3) The commission established under subsection 1,

Composition

- R.S.O. 1970,
cc. 390, 354
- (a) shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*; and
- 1977, c. 62
- (b) shall consist of the mayor of the Township of Glanbrook and additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Township of Glanbrook.
- First additional members
- (4) The council of the Township of Glanbrook shall appoint the first additional members of the commission established under subsection 1.
- Subsequent additional members
- (5) For terms after the first term, the additional members of the commission shall be elected by a general vote of the electors of the area municipality unless, before the completion of the first term of office of the members of the commission, the council of the Township of Glanbrook provides by by-law that the additional members shall be appointed by the council.
- Application of other sections of Act
- (6) Upon the establishment of a commission under subsection 1,
- (a) subsections 5, 12, 13, 14 and 16 of section 2, section 3, subsection 2 of section 6 and sections 8 to 12 shall apply with necessary modifications and, for the purpose, the dates mentioned therein shall be deemed to be the dates that shall be specified in the by-law mentioned in subsection 1; and
- (b) the commission, for the purposes of clause *a*, shall be deemed to be a commission established by section 2.
- Review of distribution and supply of power
- (7) Until such time as the power conferred by subsection 1 has been exercised,
- (a) the council of the Township of Glanbrook shall review the distribution and supply of power within the area municipality at least once in every three years, and shall determine by resolution whether or not it is financially feasible to exercise the power conferred by subsection 1; and
- (b) where the council determines as provided in clause *a* that it is financially feasible, the council shall exercise the power conferred by subsection 1.

5.—(1) The council of each of the Town of Ancaster and the Township of Flamborough, with the consent of Ontario Hydro and without the assent of the municipal electors, by by-law,

Supply of power in all areas of municipalities of Ancaster, Flamborough

(a) may direct the commission established by section 2 in respect of the municipality to commence on a day specified by the by-law the distribution and supply of power in all areas of the municipality and on the specified day sections 8 and 12 shall apply with necessary modifications to the assets and employees of Ontario Hydro in the municipality; or

(b) may dissolve the commission established by section 2 in respect of the municipality on a day specified by the by-law and on the specified day,

(i) all assets under the control and management of and all liabilities of the commission, and all debentures issued in respect of the distribution and supply of power in the municipality are, without compensation, assets and liabilities of Ontario Hydro, and

(ii) Ontario Hydro shall commence to distribute and supply power in all areas of the municipality.

(2) Until such time as the power conferred by subsection 1 has been exercised,

Review of distribution and supply of power

(a) the council of each of the Town of Ancaster and the Township of Flamborough shall review the distribution and supply of power within their respective municipalities at least once in every three years and shall determine by resolution whether or not it is financially feasible to exercise the power conferred by subsection 1; and

(b) where the council of the Town of Ancaster or the Township of Flamborough determines as provided in clause *a* that it is financially feasible for the commission established under section 2 in respect of the municipality to distribute and supply power in the entire municipality, the council, subject to the approval of Ontario Hydro, shall exercise the power conferred by subsection 1.

(3) The Flamborough Hydro-Electric Commission established by section 2 shall distribute and supply power to those customers in the Town of Ancaster to whom the Lynden Hydro-Electric Commission is distributing and supplying power as of the 31st day of December, 1980 until either,

Flamborough Hydro-Electric Commission, additional duty

- (a) the Ancaster Hydro-Electric Commission established by section 2 commences to distribute and supply power in all areas of the Town of Ancaster; or
- (b) the Flamborough Hydro-Electric Commission established by section 2 is dissolved,

as provided in subsection 1.

Where
Ontario
Hydro to
distribute
and supply
power

6.—(1) Ontario Hydro shall continue to distribute and supply power in those areas of the Town of Ancaster and the townships of Flamborough and Glanbrook that Ontario Hydro served immediately before the coming into force of this Act.

Termination
of duty to
distribute
and supply
power

(2) The duty of Ontario Hydro under subsection 1 to distribute and supply power in an area municipality is terminated, on the date specified in the by-law, by a by-law passed with the consent of Ontario Hydro by the council of the area municipality under subsection 1 of section 4 or clause *a* of subsection 1 of section 5.

Assets and
employees

(3) Sections 8 and 12 do not apply in respect of the assets and employees of Ontario Hydro in an area municipality until the passing of the by-law referred to in subsection 2.

Transfer of
assets and
liabilities

7.—(1) On the 1st day of January, 1981, all assets under the control and management of and all liabilities of the municipal commissions in each area municipality are, without compensation, assets under the control and management of and liabilities of the commission established by section 2 in respect of the area municipality.

Transitional

(2) Any of the assets, powers and responsibilities of the municipal commissions in an area municipality that pertain to the distribution and supply of power in the area municipality may be transferred by agreement before the 1st day of January, 1981 to the commission established by section 2 in respect of the area municipality.

Purchase
of retail
distribution
facilities
from
Ontario
Hydro

8.—(1) On or before the 1st day of January, 1981, each commission established by section 2 shall purchase, on behalf of the area municipality served by the commission, and Ontario Hydro shall sell to the commission, the assets and liabilities of Ontario Hydro that pertain to the distribution and supply of power at retail in the area municipality.

Leased
equipment

(2) The purchases mentioned in subsection 1 shall include equipment leased by Ontario Hydro to retail customers in the area municipalities for the use of power supplied to the retail customers.

(3) The purchase price shall be determined in accordance with the regulations and shall be equal to the original cost of the assets less the sum of,

Purchase price

- (a) the accumulated net retail equity of the customers supplied with power through the assets; and
- (b) the accumulated depreciation associated with the assets.

9.—(1) In this section, “parties” means Ontario Hydro and, in each case, the commission established by section 2.

Interpretation

(2) If the purchase price under section 8 is not determined before the 1st day of January, 1982, either of the parties at any time thereafter may request that the purchase price be determined by a single arbitrator agreed on by the parties.

Where price to be determined by arbitration

(3) *The Arbitrations Act* applies where a request is made under subsection 2.

Application of R.S.O. 1970, c. 25

10.—(1) All real property transferred by section 7 to the control and management of a commission established by section 2 or otherwise acquired by or for the commission shall be held by the commission in trust for the area municipality served by the commission.

Vesting of real property

(2) Where a commission established by section 2 is of the opinion, and so declares by resolution, that any real property under its control and management is not required for its purposes, unless otherwise agreed upon by the commission and the area municipality served by the commission, the real property may be disposed of as follows:

Disposition of real property

1. In the event that the area municipality served by the commission wishes in good faith to use the real property for a municipal purpose, it shall compensate the commission for the real property at its actual cost, less accrued depreciation as shown on the books of the commission or the assessed value of the real property, whichever is the greater, and when the municipality in good faith no longer wishes to use the real property for a municipal purpose, the area municipality may sell, lease or otherwise dispose of the real property without the assent of Ontario Hydro and may retain the proceeds of the sale, lease or disposition as municipal funds.
2. In the event that the municipality served by the commission does not wish to use the real property in accordance with paragraph 1, the commission shall, as soon as practicable, sell, lease or otherwise dispose of the real

property at fair market value on behalf of the municipality and the net proceeds derived from the sale, lease or other disposition of the real property or the compensation paid therefor under this subsection shall be received by the commission and shall be applied in accordance with *The Public Utilities Act*.

R.S.O. 1970,
c. 390

Borrowing
1973, c. 74

11. Except as otherwise provided in this Act, sections 92 to 113 of *The Regional Municipality of Hamilton-Wentworth Act, 1973* apply, with necessary modifications, to any borrowing for the purposes of a commission established by section 2.

Interpre-
tation

12.—(1) In this section, “transfer date”, when used in respect of an employee of a municipal commission or Ontario Hydro, means the date on which a commission established by section 2 assumes liability for the payment of the wages or salary of the employee.

Transfer of
employees

(2) On or before the 31st day of December, 1980, Ontario Hydro and each municipal commission that supplied power in an area municipality immediately before the coming into force of this Act shall designate those of their full-time employees who were employed in the distribution and supply of power in an area municipality on the 1st day of January, 1980, and who continued such employment until the 31st day of December, 1980 or until their transfer dates, as the case may be, and each commission established by section 2 shall offer employment to the employees designated in respect of the area municipality served by the commission.

Wages or
salaries

(3) A person who accepts employment under this section is entitled to receive, for a period of one year commencing on the transfer date, a wage or salary not less than the wage or salary he was receiving on the day nine months before the transfer date.

Participation
in O.M.E.R.S.

(4) Each commission established by section 2 shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the day this Act comes into force, and a person who accepts employment under this section shall be deemed to continue or to become a member of the System, as the case requires, on his transfer date, and *The Ontario Municipal Employees Retirement System Act* applies to such person as a member of the System.

R.S.O. 1970,
c. 324

Supple-
mentary
agreements

(5) When a person who accepts employment under this section with a commission established by section 2 is entitled immediately before this transfer date to the benefit of a supplementary agreement between the Ontario Municipal Employees Retirement Board and a municipal commission that, immediately before the

coming into force of this Act, supplied power in an area municipality mentioned in subsection 1 of section 2, the commission established by section 2 shall assume, in respect of the person, all rights and obligations under the supplementary agreement as if the commission had been a party to the agreement in the place of the municipal commission

(6) Where a person who accepts employment under this section is a contributor to The Pension and Insurance Fund of Ontario Hydro immediately before his transfer date, the present value of the pension earned by the person in The Pension and Insurance Fund of Ontario Hydro at the transfer date or the contributions of the person in the Fund with interest accumulated and credited to the person in the Fund, whichever is the greater, shall be transferred to the Ontario Municipal Employees Retirement Fund and the person shall be given credit in the Ontario Municipal Employees Retirement System for a period of service equal to the period of service for which he was given credit in The Ontario Hydro Pension and Insurance Plan.

Transfer of
pension credits
from
Ontario
Hydro Plan

(7) Notwithstanding subsection 4, a person who accepts employment under this section with a commission established by section 2 and who,

Pension
guarantee

- (a) was employed by Ontario Hydro immediately before his transfer date; and
- (b) continues in the employment of a municipal hydro-electric commission until he or his beneficiary becomes entitled to a pension benefit,

is entitled to at least the pension benefit he would have been entitled to under The Ontario Hydro Pension and Insurance Plan if his years of continuous service with the commission had been additional years of continuous service with Ontario Hydro and if there had been no change in the Plan after the 31st day of December, 1980, calculated on the basis of the wage or salary paid to the person by Ontario Hydro and the commission, and the cost, if any, of the pension benefit over the cost of the pension benefit to which the person is entitled under subsection 4 shall be apportioned and paid as provided by the regulations.

(8) A person who accepts employment under this section is entitled as a term of his employment to continue as a member of the group life insurance plan in which he was a member with his former employer until the effective date of a common group life insurance plan covering all eligible employees of his new employer.

Group life
insurance

Idem	(9) On or before the 31st day of December, 1982, each commission established by section 2 shall provide a common group life insurance plan covering all of the eligible employees of the commission, and the plan shall provide to any person accepting employment under this section, by option or otherwise, insurance coverage not inferior to the insurance coverage to which the person was entitled immediately before his transfer date.
Sick leave	(10) A person who accepts employment under this section shall continue to enjoy the rights and benefits of sick leave entitlements or sick leave insurance provided by his former employer immediately before the transfer date until the new employer establishes a sick leave entitlement plan or sick leave insurance plan, and thereupon the person shall receive allowance or credit for any accrued sick leave rights or benefits.
Life insurance provided to pensioners	(11) Each commission established by section 2 shall continue the provision of life insurance to pensioners formerly employed by a municipal commission in the distribution and supply of power in the area municipality served by the commission established by section 2.
Termination for cause	(12) Nothing in this section prevents an employer from terminating the employment of an employee for cause.
Special circumstances	(13) Where, in the opinion of the Minister, a person who is designated or who accepts employment under this section experiences any difficulty or hardship with regard to life insurance benefits, pension rights, pension benefits or sick leave rights or benefits, the Minister by order may do anything necessary to remedy or alleviate such difficulty or hardship.
Dissolution of existing commissions 1973, c. 74	13.— (1) For the purposes of section 135 of <i>The Regional Municipality of Hamilton-Wentworth Act, 1973</i> and except in respect of Hamilton Hydro-Electric Commission, the 1st day of January, 1981 is the date determined and the date designated by the Minister in respect of the Regional Area within the meaning of <i>The Regional Municipality of Hamilton-Wentworth Act, 1973</i> , and on that date the municipal commissions, other than Hamilton Hydro-Electric Commission, supplying only electrical power and energy in that area immediately before the coming into force of this Act are dissolved and any by-laws establishing them passed under sections 38 and 40 of <i>The Public Utilities Act</i> shall be deemed to be repealed and the assent of the municipal electors is not required.
R.S.O. 1970, c. 390	
Hamilton Hydro-Electric Commission	(2) On and after the day this Act comes into force, section 135 of <i>The Regional Municipality of Hamilton-Wentworth Act, 1973</i> does not apply to Hamilton Hydro-Electric Commission and

that Commission is no longer a local board and is a commission to which Part III of *The Public Utilities Act* applies.

R.S.O. 1970,
c. 390

14. The Lieutenant Governor in Council may make regulations, Regulations

(a) for the purpose of subsection 3 of section 8 in respect of,

- (i) the method of determining the original cost of the assets or of any asset or of any part of any asset,
- (ii) the allocation of the original cost of the assets or of any asset or of any part of any asset,
- (iii) the method of determining the amount of any component of the accumulated net retail equity,
- (iv) the allocation of the accumulated net retail equity or any component of the accumulated net retail equity,
- (v) the method of calculating accumulated depreciation of any component of accumulated depreciation,
- (vi) the allocation of accumulated depreciation or any component of accumulated depreciation,
- (vii) the method of payment of the price of the assets;

(b) for the purposes of subsection 7 of section 12, in respect of the apportionment of the excess cost of any benefit referred to in the subsection and the payment of the excess cost or any part thereof.

15. This Act comes into force on the day it receives Royal Assent. Commence-
ment

16. The short title of this Act is *The Hamilton-Wentworth Municipal Hydro-Electric Service Act, 1980*. Short title

BILL 93

An Act to provide for Municipal Hydro-Electric Service in The Regional Municipality of Hamilton-Wentworth

1st Reading

June 5th, 1980

2nd Reading

June 18th, 1980

3rd Reading

June 19th, 1980

THE HON. R. WELCH
Minister of Energy

100-1
- B56

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act respecting the Use of Expression "Queen's Park"

MR. BREITHAUPT

EXPLANATORY NOTE

The purpose of the Bill is to prohibit the use of the term "Queen's Park" for commercial purposes.

BILL 94

1980

An Act respecting the Use of Expression “Queen’s Park”

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. No person shall use the words “Queen’s Park” in combination, Use of
expression
“Queen’s
Park”

- (a) to describe or designate a property, place, site or location in The Municipality of Metropolitan Toronto other than the area of ground bounded by Queen’s Park Crescent in the City of Toronto;
- (b) to identify any goods, merchandise, wares or articles for commercial use or sale; or
- (c) in association with a commercial establishment providing services.

2.—(1) Every person who contravenes section 1 and every Offence
director or officer of a corporation who knowingly concurs in a contravention of section 1 is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

(2) Where a corporation is convicted of an offence under sub- Corporation
section 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

3. This Act comes into force on the day it receives Royal
Commence-
ment
Assent.

4. The short title of this Act is *The Queen’s Park Designation* Short title
Act, 1980.

BILL 94

An Act respecting the Use of
Expression "Queen's Park"

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. BREITHAUPF

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Legislative Assembly

An Act to license and regulate Go-Cart Tracks

MR. DAVIDSON



TORONTO

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EXPLANATORY NOTE

The purpose of the Bill is to provide for the regulation of go-cart tracks in Ontario. The Bill requires every person who proposes to operate a go-cart track in Ontario to obtain a licence from the Ministry of Consumer and Commercial Relations. The Bill provides regulation-making authority to the Lieutenant Governor in Council to establish safety standards relating to go-carts and the operation of go-cart tracks. The Bill further provides for the appointment of inspectors to ensure that go-cart track operators are complying with the Act and the regulations.

BILL 95

1980

An Act to license and regulate Go-Cart Tracks

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Director" means an employee of the Ministry appointed by the Minister as the Director for the purposes of this Act;
- (b) "Minister" means the Minister of Consumer and Commercial Relations;
- (c) "Ministry" means the Ministry of Consumer and Commercial Relations;
- (d) "Tribunal" means The Commercial Registration Appeal Tribunal established under *The Ministry of Consumer and Commercial Relations Act*.

R.S.O. 1970,
c. 113

2.—(1) No person shall operate a go-cart track except under the authority of a licence issued by the Director and the Director may issue a licence upon such terms and subject to such conditions as are specified in the licence or the regulations.

Licence
required

(2) The Director may refuse to issue or to renew a licence for the operation of a go-cart track, or may suspend or revoke such licence where,

Where
licence may
be refused

- (a) the go-cart track or the operation thereof does not comply with this Act or the regulations; or
- (b) the holder of the licence has failed to comply with an order of an inspector or is in contravention of this Act or the regulations.

3.—(1) Where the Director proposes,

Notice of
proposal

(a) to refuse to issue or to renew a licence; or

(b) to suspend or revoke a licence,

under subsection 2 of section 2, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licence holder, as the case may be.

Notice
requiring
hearing

(2) A notice under subsection 1 shall inform the applicant or licence holder that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Director and the Tribunal, and he may so require such a hearing.

Powers of
Director
where no
hearing

(3) Where an applicant or licence holder does not require a hearing by the Tribunal in accordance with subsection 2, the Director may carry out the proposal stated in his notice under subsection 1.

Powers of
Tribunal
where
hearing

(4) Where an applicant or licence holder requires a hearing by the Tribunal in accordance with subsection 2, the Tribunal shall appoint a time for and hold the hearing and, on the application of the Director at the hearing, may by order direct the Director to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Director ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Director.

Conditions
of order

(5) The Tribunal may attach such terms and conditions to its order as it considers proper to give effect to the purposes of this Act.

Parties

(6) The Director, the applicant or licence holder who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Voluntary
cancellation

(7) Notwithstanding subsection 1, the Director may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration.

Parties

4.—(1) The Director, the applicant or licence holder who has required the hearing and such other persons as are specified by the Tribunal are parties to proceedings before the Tribunal under this Act.

Notice of
hearing

(2) Notice of a hearing under section 3 shall afford the applicant or licence holder a reasonable opportunity to show or to achieve

compliance before the hearing with all lawful requirements for the issue or retention of the licence.

(3) An applicant or licence holder who is a party to proceedings under section 3 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Examination
of docu-
mentary
evidence

(4) Members of the Tribunal holding a hearing shall not have taken part in any investigation or consideration of the subject-matter of the hearing before the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Tribunal may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Members
holding
hearing
not to have
taken part in
investigation,
etc.

(5) The oral evidence taken before the Tribunal at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Recording
of evidence

(6) The findings of fact of the Tribunal pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*.

Findings
of fact

1971, c. 47

(7) No member of the Tribunal shall participate in a decision of the Tribunal pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Tribunal shall be given unless all members so present participate in the decision.

Only
members at
hearing to
participate
in decision

5.—(1) Notwithstanding section 3, the Director may make a decision under subsection 1 of section 3 to take effect immediately where, in his opinion, to do so is necessary for the protection of the public and, subject to subsections 3 and 4, the order takes effect immediately.

Order for
immediate
compliance

(2) Where the Director makes a decision under subsection 1, he shall serve each person named in the decision with a copy of the decision together with written reasons therefor and a notice containing the information required to be in a notice referred to in subsections 1 and 2 of section 3.

Notice of
order

(3) Where a person named in the decision requires a hearing by the Tribunal in accordance with the notice under subsection 2, the

Hearing

Tribunal shall appoint a time for and hold the hearing and may confirm or set aside the decision or exercise such other powers as may be exercised in a proceeding under section 3.

Expiration
of order

(4) Where a hearing by the Tribunal is required, the decision expires fifteen days after the giving of the notice requiring the hearing but, where the hearing is commenced before the expiration of the decision, the Tribunal may extend the time of expiration until the hearing is concluded.

Parties

(5) The Director and the person who has required the hearing and such other persons having a direct interest in the order as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Stay
R.S.O. 1970,
c. 113

6. Notwithstanding that, under section 9b of *The Ministry of Consumer and Commercial Relations Act*, an appeal is taken from a decision of the Tribunal made under section 3 or 5, the decision takes effect immediately but the Tribunal may grant a stay until the disposition of the appeal.

Appointment
of inspectors

7.—(1) The Minister may appoint inspectors for the purposes of this Act and the regulations and such appointments shall be in writing.

Powers of
inspectors

(2) An inspector, upon the production of his appointment under subsection 1, may enter on the premises of a go-cart track or other business premises of a go-cart track operator for the purpose of determining that the operator is complying with this Act and the regulations.

Reporting
accidents

8.—(1) Where an accident occurs on a go-cart track that results in the death of or serious injury to any person, the operator of the track shall notify the Director by telephone forthwith.

Idem

(2) Where an accident occurs that causes injury to any person or where there has been an incident that indicates that the go-cart track is in a potentially hazardous condition, the operator of the go-cart track shall notify the Director by telephone within twenty-four hours and shall submit a written report giving full particulars within seven days thereafter.

Investigation

(3) On being notified of an accident or incident in accordance with this section, the Director shall cause such investigation to be made as he considers necessary.

Offences

9.—(1) Every person who,

(a) contravenes any provision of this Act or the regulations;

- (b) knowingly makes a false statement in any document required by this Act or the regulations;
- (c) contravenes any term or condition of a licence;
- (d) contravenes an order or requirement of an inspector,

and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of one year, or to both.

(2) Where a corporation is convicted of an offence under sub-^{Corporations} section 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein:

(3) Any person who prevents or obstructs or attempts to pre-^{Obstruction}vent or obstruct an inspector from entering premises or making an inspection authorized by this Act is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

10. The Lieutenant Governor in Council may make regula-^{Regulations}tions,

- (a) establishing safety standards for the operation of go-cart tracks in Ontario;
- (b) respecting the use of roll bars, lap belts and helmets by persons driving go-carts on go-cart tracks;
- (c) establishing a minimum age for persons driving go-carts on go-cart tracks;
- (d) respecting standards for the construction and maintenance of go-cart tracks;
- (e) establishing speed limits for go-cart vehicles and limiting the number of go-carts on the track at a given time;
- (f) requiring persons qualified in the use of first-aid to be in attendance during go-cart operations;
- (g) respecting inspections of go-cart tracks under this Act.

11. This Act comes into force on the day it receives Royal^{Commence-}Assent.^{ment}

12. The short title of this Act is *The Go-Cart Track Regulation*^{Short title}
Act, 1980.

BILL 95

An Act to license and regulate
Go-Cart Tracks

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. DAVIDSON

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Labour Relations Act

MR. MACKENZIE



EXPLANATORY NOTE

Subsection 1 of section 36a, as it currently reads, is set out below, with the words to be deleted by the amendment underlined.

- (1) *Except in the construction industry, where a trade union that is the bargaining agent for employees in a bargaining unit so requests, there shall be included in the collective agreement between the trade union and the employer of the employees a provision that at the written request of an employee in the bargaining unit the employer shall deduct from the wages of the employee the amount of the regular union dues payable by members of the trade union and remit the amount to the trade union.*

The proposed amendment requires the inclusion in every collective agreement of a provision providing for the deduction of union dues by an employer from an employee's wages. The provision does not apply to the construction industry.

BILL 96

1980

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 36a of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1975, chapter 76, section 9, is repealed and the following substituted therefor:

(1) Except in the construction industry, where a trade union that is the bargaining agent for employees in a bargaining unit so requests, there shall be included in the collective agreement between the trade union and the employer of the employees a provision that the employer shall deduct from the wages of each employee the amount of the regular union dues payable by members of the trade union and remit the amount to the trade union.

2. This Act comes into force on the day it receives Royal Assent.
3. The short title of this Act is *The Labour Relations Amendment Act, 1980*.

An Act to amend
The Labour Relations Act

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

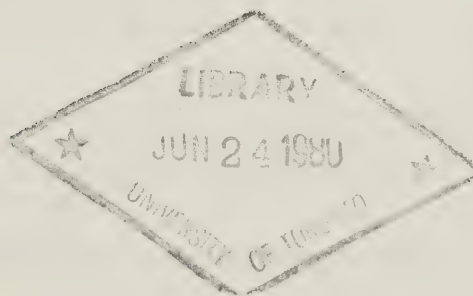
MR. MACKENZIE

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Labour Relations Act

MR. MACKENZIE



EXPLANATORY NOTE

The purpose of the Bill is to provide the Ontario Labour Relations Board with authority to settle the terms and conditions of a first collective agreement between a trade union and an employer where the dispute settlement procedures in the Act have not been effective. Each collective agreement settled by the Board shall be for a term of between one and two years in duration.

BILL 97

1980

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

34e.—(1) Where the parties have engaged in bargaining with a view to concluding their first collective agreement and either party is of the opinion that the dispute settlement procedures of the Act have not been effective and are not likely to be effective in enabling the parties to conclude an agreement, the party may apply to the Board to settle the terms and conditions of the first collective agreement and, if the Board considers it advisable, the Board may settle the terms and conditions of the first collective agreement.

(2) The terms and conditions of a first collective agreement as determined by the Board shall be deemed to constitute the collective agreement between the parties and are binding upon them except to the extent that the parties agree in writing to vary any or all of those terms and conditions.

(3) The collective agreement settled by the Board under this section shall be for a term of from one to two years duration from the date the Board settles the terms and conditions of the collective agreement.

2. Subsection 1 of section 53 of the said Act is repealed and the following substituted therefor:

(1) Subject to subsection 3, where a trade union has not made a collective agreement within one year after its certification and the Minister has appointed a conciliation officer or a mediator under this Act or a party to collective

bargaining has requested the Board to settle the terms and conditions of a first collective agreement, no application for certification of a bargaining agent of, or for a declaration that a trade union no longer represents, the employees in the bargaining unit determined in the certificate shall be made until,

- (a) thirty days have elapsed after the Minister has released to the parties the report of a conciliation board or mediator; or
- (b) thirty days have elapsed after the Minister has released to the parties a notice that he does not consider it advisable to appoint a conciliation board; or
- (c) six months have elapsed after the Minister has released to the parties a notice of a report of the conciliation officer that the differences between the parties concerning the terms of a collective agreement have been settled; or
- (d) six months have elapsed after the Board has notified the parties of a refusal to settle the terms and conditions of a first collective agreement,

as the case may be.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is *The Labour Relations Amendment Act, 1980*.

BILL 97

An Act to amend
The Labour Relations Act

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

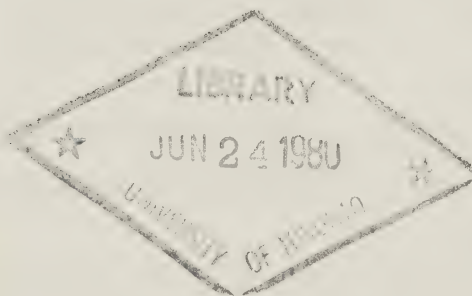
(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Legislature of Ontario

An Act to amend The Labour Relations Act

MR. MACKENZIE



EXPLANATORY NOTE

The purpose of the Bill is to reduce the percentage of employees in a bargaining unit required to be members of a trade union in order for the Board to direct a representation vote. The proposed amendment requires the Board to certify a trade union as a bargaining agent without a representation vote where the Board is satisfied that more than 50 per cent of the members of the bargaining unit are members of the trade union. A representation vote held under this section must be held within seven days of the day on which the Board directs the vote.

BILL 98

1980

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 2 and 3 of section 7 of *The Labour Relations Act*, being s. 7 (2, 3),
chapter 232 of the Revised Statutes of Ontario, 1970, as amended by re-enacted
the Statutes of Ontario, 1975, chapter 76, section 4, are repealed
and the following substituted therefor:
 - (2) If the Board is satisfied that not less than 35 per cent and not Determination
more than 50 per cent of the employees in the bargaining unit are of members
members of the trade union, the Board shall direct that a rep- in bargaining
resentation vote be taken within seven days of the day on which unit
the direction is made.
 - (3) If on the taking of a representation vote more than 50 per Certification
cent of the ballots cast are in favour of the trade union, the Board after vote
shall certify the trade union as the bargaining agent of the
employees in the bargaining unit.
 - (4) If the Board is satisfied that more than 50 per cent of the Certification
employees in the bargaining unit are members of the trade union, without vote
the Board shall certify the trade union as bargaining agent without
taking a representation vote.
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Labour Relations Amendment Act*, Short title
1980.

An Act to amend
The Labour Relations Act

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

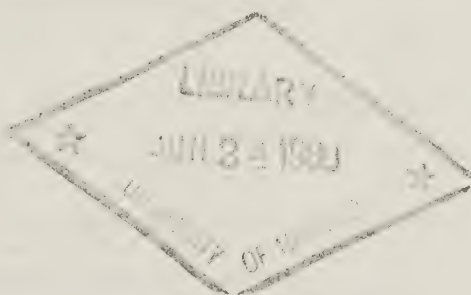
3
17
BILL 99

Private Member's Bill

4TH SESSION, 31ST LEGISLATURE, ^TONTARIO
29 ELIZABETH II, 1980 ^{2 p} *Legislation House*

An Act to amend The Labour Relations Act

MR. MACKENZIE



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of this Bill is to prevent the hiring of strikebreakers and to control access to a work premises that is affected by a strike or lock-out. The Bill prohibits an employer from hiring or using the services of a person to do the work of an employee who is on strike or locked out unless that person is specifically authorized to do so. Similarly, when a picket line is established at a place of access to a work premises, access is limited to persons specifically authorized by the Bill.

BILL 99

1980

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 59a.
enacted

59a.—(1) In this section,

Interpre-
tation

- (a) “employer” includes an employers’ organization and a person acting on behalf of an employer or an employers’ organization;
- (b) “legal picket line” means a moving formation of two or more persons who are members of a certified bargaining unit and who by means of signs or posters give notice that the certified bargaining unit is on strike or locked out.

(2) No employer shall employ or use the services of any person to perform the work of an employee who is exercising a legal right to strike or who is locked out unless, Unlawful
employment

- (a) the person ordinarily exercises managerial or supervisory functions and was a full-time employee of the employer on the day the strike or lock-out commenced; or
- (b) the person is authorized to perform the work by agreement between the employer and representatives of the certified bargaining unit that is on strike or locked out.

(3) Where a legal picket line is formed in support of a lawful strike or lock-out at a place of access to a work premises, no person shall enter the premises unless, Unlawful
entry

- (a) the person ordinarily exercises managerial and supervisory functions;
- (b) the person is a member of a certified bargaining unit that is not on strike or locked out and is not engaged in performing the work of an employee who is on strike or locked out;
- (c) the person is a non-union employee who was a full-time employee of the employer on the day the strike or lock-out was commenced and is not engaged in performing the work of an employee who is on strike or locked out;
- (d) the person requires access to the work premises for the purpose of providing emergency services;
- (e) the person is authorized to enter the work premises by agreement between the employer and representatives of the bargaining unit that is on strike or locked out.

Duty of
police
officer

(4) Where a picket line is formed in support of a lawful strike or lock-out at a place of access to a work premises, it is the duty of every police officer stationed at that place to ensure that no person other than a person authorized under subsection 3 enters the work premises.

Trespass

(5) A person who enters the work premises contrary to subsection 3 or who, upon gaining entry, performs work contrary to subsection 2, commits a trespass and is liable to proceedings under *The Petty Trespass Act*.

R.S.O. 1970,
c. 347

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is *The Labour Relations Amendment Act, 1980*.

BILL 99

An Act to amend
The Labour Relations Act

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Legislative Assembly

An Act to amend The Labour Relations Act

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to preserve the collective bargaining rights of employees of a business that is relocated. In addition to continuing pre-relocation bargaining rights and collective agreements in force after the relocation, the proposed amendment provides for a sixty day period from the date of the notice of relocation during which an employee can choose to continue his employment at the new location. Once the relocation has taken place, the Ontario Labour Relations Board has authority to determine whether a bargaining unit exists.

BILL 100

1980

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 55 of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by inserting after "section" in the first line "and section 55a". s. 55 (1),
amended

2. The said Act is amended by adding thereto the following section: s. 55a,
enacted

55a.—(1) Where an employer relocates his business, the employer is bound by determinations, agreements and proceedings made under this Act in respect of the business before the date of the relocation until the Board otherwise declares, and the determinations, agreements and proceedings shall continue in effect as if no change had occurred except that the description of the bargaining unit contained in the certificate or collective agreement is deemed to be amended to include the new location. Relocation
rights

(2) An employer shall provide reasonable notice to his employees of any decision to relocate his business and the employer shall permit an employee affected thereby sixty days from the date of the notice of relocation to accept employment at the new location. Continuation
of
employment

(3) Notwithstanding subsection 2, an employer is not required to continue the employment of an employee if the employer no longer requires work to be performed in the new location of the same nature as work performed by the employee in the former location and the employer no longer requires the skills possessed by the employee for any work performed at the new location. Exception

(4) Where a business has been relocated and a trade union or council of trade unions was the bargaining agent of any of the employees of the business in the former location or a trade union or council of trade unions is the bargaining agent of the employees of a similar business being carried on in the area of the new location, and, Remedial
power of
Board

- (a) any question arises concerning the application of this section; or
- (b) any person, trade union or council of trade unions claims that, by virtue of the operation of subsection 1, a conflict exists between the bargaining rights of the trade union or council of trade unions that was the bargaining agent of the employees of the business in the former location and a trade union or council of trade unions that represents employees of a similar business being carried on in the area of the new location,

the Board may, upon the application of any person, trade union or council of trade unions concerned,

- (c) define the composition of the bargaining unit for the business in the new location and certify a trade union or council of trade unions as the bargaining agent of employees in the bargaining unit; and
- (d) amend, to such extent as the Board considers necessary, any bargaining unit in any certificate issued to a trade union or council of trade unions before the relocation or any bargaining unit defined in any collective agreement concluded before the relocation.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is *The Labour Relations Amendment Act, 1980*.

BILL 100

An Act to amend
The Labour Relations Act

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

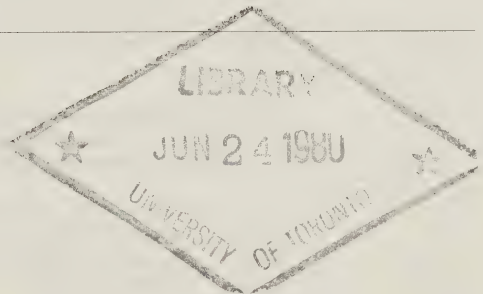
MR. MACKENZIE

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980 *For information*

An Act to amend
The Crown Employees Collective Bargaining Act, 1972

MR. MACKENZIE



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

The purpose of the Bill is to repeal certain provisions of *The Crown Employees Collective Bargaining Act, 1972* that restrict the composition of collective agreements negotiated under the Act.

SECTION 1. Section 13, as it now reads, is set out below:

- 13. No collective agreement or decision of a board shall contain any term which would require either directly or indirectly for its implementation the enactment or amendment of legislation except for the purpose of appropriating moneys for its implementation.*

SECTION 2. Subsection 3 of section 15, as it now reads, is set out below:

- (3) No collective agreement shall contain a provision which would require, as a condition of employment, membership in the employee organization.*

SECTION 3. Subsection 1 of section 17, as it now reads, is set out below:

- (1) Every collective agreement shall be deemed to provide that it is the exclusive function of the employer to manage, which function, without limiting the generality of the foregoing, includes the right to determine,*

(a) employment, appointment, complement, organization, assignment, discipline, dismissal, suspension, work methods and procedures, kinds and locations of equipment and classification of positions; and

(b) merit system, training and development, appraisal and superannuation, the governing principles of which are subject to review by the employer with the bargaining agent,

and such matters will not be the subject of collective bargaining nor come within the jurisdiction of a board.

BILL 101

1980

An Act to amend The Crown Employees Collective Bargaining Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 13 of *The Crown Employees Collective Bargaining Act, 1972*, being chapter 67, is repealed. s. 13,
repealed
2. Subsection 3 of section 15 of the said Act is repealed. s. 15 (3),
repealed.
3. Subsection 1 of section 17 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 135, section 9, is repealed. s. 17 (1),
repealed
4. This Act comes into force on the day it receives Royal Assent. Commence-
ment
5. The short title of this Act is '*The Crown Employees Collective Bargaining Amendment Act, 1980*'. Short title

BILL 101

An Act to amend
The Crown Employees Collective
Bargaining Act, 1972

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

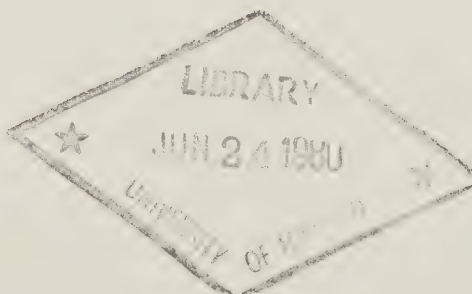
BILL 102

Private Member's Bill

4TH SESSION, 31ST LEGISLATURE, ⁶ONTARIO
29 ELIZABETH II, 1980 252

An Act to declare the Application of certain Parts of
The Employment Standards Act, 1974

MR. MACKENZIE



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to extend the application of Parts IV, V, VI, VII and VIII of *The Employment Standards Act, 1974* to domestic servants. These Parts are concerned with employment standards relating to hours of work, minimum wages, overtime pay, public holidays and vacations with pay. Clause *f* of section 3 of Ontario Regulation 803/75 currently prevents these Parts of the Act from applying to domestic servants.

BILL 102

1980

An Act to declare the Application of certain Parts of The Employment Standards Act, 1974

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:

1. Notwithstanding clause *f* of section 3 of Ontario
Regulation 803/75, it is hereby declared that Parts IV, V,
VI, VII and VIII of *The Employment Standards Act, 1974*
apply to a person who is employed as a domestic servant.

Declaration
re O. Reg.
803/75,
s. 3 (*f*)
1974, c. 112

2. This Act comes into force on the day it receives Royal
Assent.

Commence-
ment

3. The short title of this Act is *The Employment Standards
Declaratory Act, 1980*.

Short title

An Act to declare the Application of
certain Parts of The Employment
Standards Act, 1974

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ¹ONTARIO
29 ELIZABETH II, 1980

Legislative Assembly

An Act to amend The Labour Relations Act

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to clarify that *The Labour Relations Act* applies to employees who are engaged in agricultural employment in an industrial or factory setting. Section 2 (b) of the Act currently states that the Act does not apply “to a person employed in agriculture”. This provision has been interpreted broadly by the Ontario Labour Relations Board to exclude from the Act persons whose employment relates to agriculture but who are employed in organizations that resemble industrial plants.

BILL 103

1980

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *b* of section 2 of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 2 (b),
re-enacted

(b) to a person employed in agriculture on a farm by a person who is a farmer;

(ba) to a person employed in hunting or trapping.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Labour Relations Amendment Act, 1980*. Short title

BILL 103

An Act to amend
The Labour Relations Act

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ¹/ONTARIO
29 ELIZABETH II, 1980

Legislative Assembly

An Act to provide for the Employment of
Disabled Persons

MR. MACKENZIE



EXPLANATORY NOTE

The purpose of the Bill is to provide employment opportunities for disabled persons. The Bill requires that employers hire disabled persons to constitute at least 3 per cent of the employer's work force. The Bill permits the Minister to vary this percentage requirement in cases where the Minister considers another quota to be more suitable. In addition, the Minister may exempt an employer or class of employers from the operation of the statute. The Bill establishes a register of employable disabled persons to be maintained by the Ministry for the purpose of facilitating efforts by employers to meet the quota established by this Bill.

BILL 104

1980

An Act to provide for the Employment of Disabled Persons

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “disabled person” means any person suffering from a serious and prolonged physical disability;
- (b) “Minister” means the Minister of Labour;
- (c) “Ministry” means the Ministry of Labour;
- (d) “register” means the register of disabled persons established under section 4.

2.—(1) Every employer shall ensure that at any point in time the number of disabled persons who are employees of the employer is at least 3 per cent of the total number of employees of the employer.

Employment
of disabled
persons

(2) Notwithstanding subsection 1, the Minister may, by order, establish a quota for an employer or class of employers that is greater or less than the quota established under subsection 1 where the Minister is of the opinion that the quota established under subsection 1 is not suitable to that employer or class of employers.

Minister
may set
quota

3.—(1) No employer shall hire any person other than a disabled person if the number of disabled persons employed by the employer is less than the employer’s quota established under section 2.

Prohibition

(2) Subsection 1 does not apply to an employer who hires a person,

Exception

- (a) as a result of an agreement to reinstate the person entered into before the day on which this Act comes into force;
- (b) in accordance with an order or permit issued by the Minister under section 5.

Register

4.—(1) The Ministry shall establish and maintain a register of disabled persons for the purpose of facilitating the hiring by employers of disabled persons and the register shall record the name, address, qualifications, skills and the nature of the disability of each person registered therein.

Disabled person entitled to be registered

(2) Upon application, a person is entitled to be registered by the Ministry as a disabled person for the purposes of this Act if,

- (a) the person suffers from a physical disability that harms the person's prospects in obtaining employment; and
- (b) the person is capable of performing work in one or more work situations without causing danger to other employees.

Exemption order

5. Upon application, the Minister may, by order,

- (a) exempt an employer or class of employers from the operation of this Act;
- (b) permit an employer to hire one or more persons who are not disabled persons for purposes set forth in the order.

Offence

6.—(1) Every employer who contravenes this Act is guilty of an offence and on summary conviction is liable,

- (a) if an individual, to a fine of not more than \$1,000; or
- (b) if a corporation, to a fine of not more than \$10,000.

Opportunity to comply

(2) No prosecution against an employer shall be instituted under this Act unless the employer is notified of the intent to bring a prosecution and afforded a reasonable opportunity to show or achieve compliance with this Act.

Regulations

7. The Lieutenant Governor in Council may make regulations,

- (a) prescribing additional types of information to be recorded in respect of each disabled person registered in the register;
- (b) governing the types of information to be supplied to the Ministry by each disabled person registered in the register;
- (c) governing records to be kept and reports to be provided by each employer concerning the disabled persons employed by the employer.

8. This Act comes into force on a day to be named by ^{Commence-} proclamation of the Lieutenant Governor. ^{ment}

9. The short title of this Act is *The Disabled Persons* ^{Short title}
Employment Act, 1980.

An Act to provide for the
Employment of Disabled Persons

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

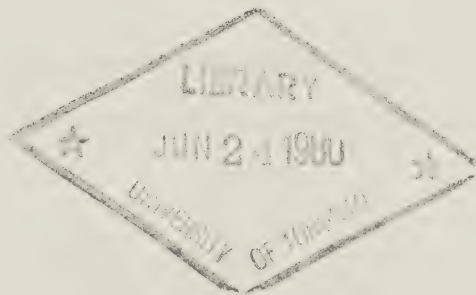
(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Legislative Assembly

**An Act to amend
The Employment Standards Act, 1974**

MR. MACKENZIE



EXPLANATORY NOTE

The purpose of this Bill is to establish a standard relating to the installation and operation of electronic surveillance systems in places of employment. The Bill permits the installation of these systems only where it is reasonably necessary for the protection of the health or safety of employees. The onus of establishing that the installation and operation of a surveillance system is reasonably necessary for this purpose is placed upon the employer.

BILL 105

1980

**An Act to amend
The Employment Standards Act, 1974**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Employment Standards Act, 1974*, being chapter 112, is ^{s. 15a, enacted} amended by adding thereto the following section.

15a. No employer shall install or operate an electronic ^{Electronic surveillance} surveillance device or system in a place of employment to record or monitor the work and other activities of his employees unless the installation and operation of such device or system is reasonably necessary, the proof of which lies upon the employer, for the protection of the health and safety of the employees.

2. This Act comes into force on the day it receives Royal Assent. <sup>Commence-
ment</sup>
3. The Short title of this Act is *The Employment Standards Amend- Short title
ment Act, 1980*.

An Act to amend
The Employment Standards Act, 1974

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

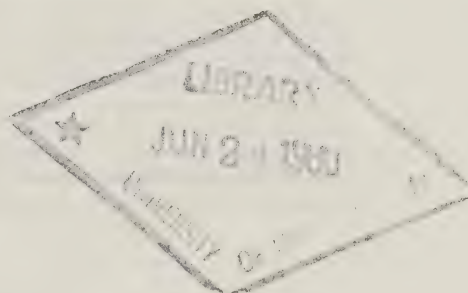
MR. MACKENZIE

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to provide
Political Rights for Public Servants

MR. MACKENZIE



EXPLANATORY NOTE

This Bill is designed to give public servants the same political rights that all other citizens enjoy in Ontario. It covers civil servants, crown employees, employees of community colleges, and people working for agencies such as Ontario Hydro, the Workmen's Compensation Board, and the Ontario Northland Transportation Commission, but excludes Deputy Ministers, officers of similar status in Crown agencies, and other senior policy-making officials.

The deleted sections of *The Public Service Act* make it illegal for a public servant to canvass on behalf of a candidate in an election, to solicit funds for a political party or a candidate at any time, or to speak or to write a letter to the editor on "any matter that forms part of the platform of a provincial or federal political party". A public servant may only become a candidate for election after the writs are issued and is effectively barred from being a candidate if a nomination is held before that date. The candidate must take leave of absence without pay for a period of 4 to 5 weeks.

The Bill provides that public servants will be able to write, speak, contribute, solicit funds, work, join, hold office, and vote on behalf of, in, for, or to a political party or candidate in a federal or provincial election and protects public servants from punitive action by their superiors or from being forced to carry out partisan duties as a condition of their employment.

The deleted section of *The Crown Employees Collective Bargaining Act, 1972* contains the sections which are re-enacted in the Bill and also prohibits an employee organization from receiving money from public employees who are its members for activities carried on by, or on behalf of a political party, from paying out money to, or on behalf of, the political party, or from otherwise supporting a political party. The penalty for these activities is loss of bargaining rights. The Bill will give an employee organization the rights enjoyed by other trade unions, prevents it from compelling an employee to engage in political activity, and provides for a wider range of penalties.

BILL 106

1980

An Act to provide Political Rights for Public Servants

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “agency” means any board, agency, or commission of the Crown in right of Ontario;
- (b) “public servant” means a person appointed in the service of the Crown by the Lieutenant Governor in Council, by the Civil Service Commission, or by a Minister, or a person employed in the service of the Crown or any agency of the Crown, but does not include any Deputy Minister or senior employee of the Crown or an agency with management or policy responsibilities;
- (c) “Tribunal” means the Ontario Public Service Labour Relations Tribunal as defined in section 1 of *The Crown Employees Collective Bargaining Act*, 1972, c. 67 1972.

2.—(1) Every public servant shall be entitled to exercise the following political rights, Political
rights

- (a) the right to vote;
- (b) the right to actively support a political party or a candidate for provincial or federal office;
- (c) the right to contribute to a political party at any time;
- (d) the right to solicit funds for a candidate or for a political party;

- (e) the right to be a member of a political party and to hold office in such party; and
- (f) the right to express views on matters that form part of the platform of a provincial or federal political party.

Idem

(2) The rights provided in subsection 1 are subject to the condition that,

- (a) the employee does not engage in political activities during working hours;
- (b) the employee does not associate his position in the service of the Crown with any political activity;
- (c) the employee does not speak in public or express views in writing for distribution to the public on any matter with which he is directly engaged in his employment with the Crown;
- (d) the employee respects his oath of office and secrecy, as provided under section 10 of *The Public Service Act*.

R.S.O. 1970,
c. 386

Partisan
work by
public
servants

3. No public servant shall be required by his employer to engage in work or activity of a partisan nature for a candidate or a political party either during or outside working hours and, notwithstanding the provisions of any other Act, refusal to perform such activities shall be a justifiable defence against any dismissal, transfer, or other disciplinary action.

Leave
of
absence

4. A public servant who proposes to become a candidate in a provincial or federal election shall inform his Minister or the chief officer of his agency, and,

- (a) may seek leave of absence without pay at any time after he is duly nominated by his party as its candidate; and
- (b) shall take leave of absence commencing on the day on which the writ for the election is issued or on the day on which he is nominated by his party, whichever date comes later; and
- (c) shall be granted leave with pay commencing on the day provided by statute for the nomination of candidates and ending on polling day,

and every such application shall be granted.

5. Where a public servant who is a candidate in a provincial or federal election is elected, he shall forthwith resign his position as a public servant. Resignation

6. Where a public servant who has resigned under section 5, Reappointment

(a) ceases to be an elected political representative within five years of his resignation; and

(b) applies for reappointment to his former position or to another position in the service of the Crown for which he is qualified, within three months of ceasing to be an elected political representative,

he shall be reappointed to the position upon its next becoming vacant.

7. Where a public servant has been granted leave of absence under section 4 and was not elected, or resigned his position under section 5 and was reappointed under section 6, the period of the leave of absence or resignation shall be computed in determining the length of his service for any purpose, and his service shall be deemed to be continuous for all purposes. Period of leave of absence

8. Every public servant who knowingly fails to comply with the requirements of this Act may be disciplined under the Act or regulation governing his employer. Disciplinary action

9.—(1) In this section, “employee organization” means an organization of employees formed for the purpose of regulating relations between the Crown in right of Ontario and public servants under this Act. Interpretation

(2) No employee organization shall discriminate against any employee because of age, sex, race, national origin, colour or religion. Prohibitions

(3) Where a public servant or the Crown in right of Ontario considers that an employee organization is in violation of section 9, a complaint may be lodged with the Tribunal, which shall conduct a public hearing to consider the matter and which may, Tribunal

(a) dismiss the complaint; or

(b) withdraw bargaining rights from the employee organization involved; or

(c) levy a fine; or

(d) take such other disciplinary action as it considers appropriate.

R.S.O. 1970,
c. 386, ss. 12-16,
repealed

10. Sections 12, 13, 14, 15 and 16 of *The Public Service Act*, being chapter 386 of the Revised Statutes of Ontario, 1970, are repealed.

1972, c. 67,
s. 1 (1) (h),
repealed

11. Clause *h* of subsection 1 of section 1 of *The Crown Employees Collective Bargaining Act, 1972*, being chapter 67 of the Statutes of Ontario, 1972, is repealed.

Short title

12. The short title of this Act is *The Public Servants Political Rights Act, 1980*.

An Act to provide
Political Rights for Public Servants

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

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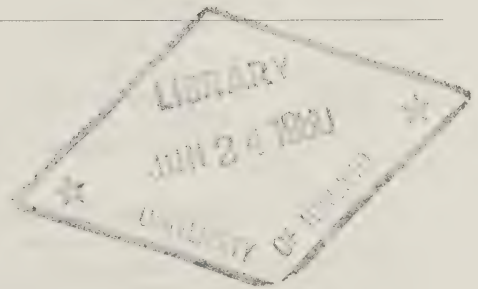
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BILL 107

Government
Publications
Private Member's Bill

4TH SESSION, 31ST LEGISLATURE, ¹ONTARIO
29 ELIZABETH II, 1980 ²*Legislative Assembly*

**An Act to amend
The Employment Standards Act, 1974**

MR. MACKENZIE



EXPLANATORY NOTES

The purpose of the Bill is to reduce the standard work week from forty-eight hours to forty hours and to require employers to pay overtime rates for work done in excess of forty hours per week rather than forty-four hours.

The sections of the Act as amended by this Bill are set out below with the amended portions shown underlined.

SECTION 1. Subsection 2 of section 11, as amended, would read as follows:

- (2) *Subclause iii of clause a of subsection 1 does not apply in respect of the salaried employees of an employer who perform work of a clerical or administrative nature where the employer makes and keeps a record showing the number of hours worked by such employees in excess of eight hours a day and forty hours a week.*

SECTION 2. Section 17, as amended, would read as follows:

17. *Except as otherwise provided in this Part, and subject to any schedule in force under The Industrial Standards Act, the hours of work of an employee shall not exceed eight in the day and forty in the week.*

SECTION 3. Section 18, as amended, would read as follows:

18. *An employer may, with the approval of the Director, and upon such terms and conditions as the Director prescribes, adopt a regular day of work in excess of eight hours but not in excess of twelve hours, provided that the total hours of work of each employee shall not exceed forty hours in a week.*

SECTION 4. Subsection 3 of section 20, as amended, would read as follows:

- (3) *The issuance of a permit under this section does not require an employee to work any hours in excess of those prescribed by section 17 or approved under section 18 without the consent or agreement of the employee or his agent to hours in excess of eight in the day or forty in the week.*

SECTION 5. Subsection 1 of section 25, as amended, would read as follows:

- (1) *Except as otherwise provided in the regulations, where an employee works for an employer in excess of forty hours in any week, he shall be paid for each hour worked in excess of forty hours overtime pay at an amount not less than one and one-half times the regular rate of the employee.*

BILL 107

1980

**An Act to amend
The Employment Standards Act, 1974**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 11 of *The Employment Standards Act, 1974*, being chapter 112, is amended by striking out "forty-four" in the sixth line and inserting in lieu thereof "forty". s. 11 (2),
amended
2. Section 17 of the said Act is amended by striking out "forty-eight" in the fourth line and inserting in lieu thereof "forty". s. 17,
amended
3. Section 18 of the said Act is amended by striking out "forty-eight" in the fifth line and inserting in lieu thereof "forty". s. 18,
amended
4. Subsection 3 of section 20 of the said Act is amended by striking out "forty-eight" in the fifth line and inserting in lieu thereof "forty". s. 20 (3),
amended
5. Subsection 1 of section 25 of the said Act is amended by striking out "forty-four" in the third line and in the fourth line and inserting in lieu thereof in each instance "forty". s. 25 (1),
amended
6. This Act comes into force on the day it receives Royal Assent. Commence-
ment
7. The short title of this Act is *The Employment Standards Amendment Act, 1980*. Short title

An Act to amend
The Employment Standards Act, 1974

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980 *Legislative Assembly*

An Act to amend The Employment Standards Act, 1974

MR. MACKENZIE

EXPLANATORY NOTES

SECTION 1. The proposed new section 29 increases the vacation period to which an employee is entitled under the Act. Currently, the Act provides a two week vacation period for each employee that does not vary with the amount of employment service.

SECTION 2. The proposed amendment is complementary to section 1 of the Bill. Subsection 1 of section 30 of the Act as it currently reads is set out below with the amended portions underlined.

- (1) *The employer shall determine the period when an employee may take the vacation to which he is entitled under section 29, which may be a two week period or two periods of one week each, but in any case the employee shall be given his vacation not later than ten months after the end of the twelve month period for which the vacation was given.*

SECTION 3. The proposed amendment is complementary to section 1 of the Bill. Section 31 of the Act as it currently reads is set out below with the amended portions underlined.

31. *Where the employment of an employee ceases before the completion of a twelve month period of employment or the employee has not been given a vacation with pay pursuant to section 29, the employer shall pay to the employee an amount equal to 4 per cent of the wages of the employer in any twelve month period or periods or part thereof and in calculating wages no account shall be taken of any vacation pay previously paid.*

BILL 108

1980

An Act to amend The Employment Standards Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 29 of *The Employment Standards Act, 1974*, being chapter 112, is repealed and the following substituted therefor: s. 29,
re-enacted

29.—(1) Every employer shall give to each employee a vacation Vacations
with pay of at least,

- (a) two weeks in each year upon the completion of twelve months of employment;
- (b) three weeks in each year upon the completion of sixty months of employment; and
- (c) four weeks in each year upon the completion of 120 months of employment.

(2) The amount of pay for a vacation shall be not less than an Idem
amount equal to 2 per cent of the annual wages of the employee for each week of vacation to which the employee is entitled under subsection 1 and in calculating wages no account shall be taken of any vacation pay previously paid.

2. Subsection 1 of section 30 of the said Act is repealed and the s. 30 (1),
re-enacted
following substituted therefor:

(1) The employer shall determine the period when an employee When
vacation
to be taken
may take the vacation to which he is entitled under section 29, which may be a consecutive period or periods of one week each, but in any case the employee shall be given his vacation not later than six months after the end of the twelve month period for which the vacation was given.

3. Section 31 of the said Act is repealed and the following substituted s. 31,
re-enacted
therefor:

Vacation
pay

31. Where the employment of an employee ceases before the completion of a twelve month period of employment or the employee has not been given a vacation with pay pursuant to section 29, the employer shall pay to the employee an amount equal to 2 per cent of the annual wages of the employee for each week of vacation to which the employee is entitled under section 29, and in calculating wages no account shall be taken of any vacation pay previously paid.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is *The Employment Standards Amendment Act, 1980*.

BILL 108

An Act to amend
The Employment Standards Act, 1974

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

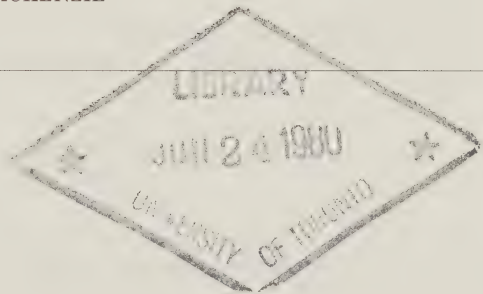
MR. MACKENZIE

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ¹ONTARIO
29 ELIZABETH II, 1980 *27 Lord Alton P.*

An Act to amend The Employment Standards Act, 1974

MR. MACKENZIE



EXPLANATORY NOTE

The purpose of the Bill is to extend the time for giving notice where the employment of an employee is about to be terminated. Where fifty or more employees are to be affected by a termination, a notice period of twenty-six weeks is required. The notice periods also apply in cases of extended lay-offs.

BILL 109

1980

An Act to amend The Employment Standards Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 1 and 2 of section 40 of *The Employment Standards Act, 1974*, being chapter 112, are repealed and the following substituted therefor: s. 40 (1, 2),
re-enacted

(1) In this Part, an employer shall be deemed to have terminated the employment of an employee when the employee has been laid off from his employment for a period of more than thirteen weeks in any period of more than twenty weeks. Lay-off
deemed
to be
termination

(1a) No employer shall terminate the employment of an employee who has been employed for three months or more unless he gives, Notice of
termination

- (a) four weeks notice in writing to the employee if his period of employment is less than two years;
- (b) eight weeks notice in writing to the employee if his period of employment is two years or more but less than five years;
- (c) sixteen weeks notice in writing to the employee if his period of employment is five years or more but less than ten years; and
- (d) twenty-six weeks notice in writing to the employee if his period of employment is ten years or more.

(2) Notwithstanding subsection 1, no employer shall terminate the employment of fifty or more employees in any period of four weeks or less unless he gives twenty-six weeks notice in writing to each employee and such notice has expired. Idem

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is *The Employment Standards Amendment Act, 1980*.

An Act to amend
The Employment Standards Act, 1974

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO

29 ELIZABETH II, 1980

Legislation Assembly

An Act to amend
The Employment Standards Act, 1974

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to ensure that no employee engaged in the preparation or service of food in a tavern, restaurant, hotel, motel or tourist resort be required, as a term or condition of employment, to work while nude or partially nude.

BILL 110

1980

**An Act to amend
The Employment Standards Act, 1974**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Employment Standards Act, 1974*, being chapter 112, is ^{s. 15a.} amended by adding thereto the following section: ^{enacted}

15a.—(1) No employer shall require as a term or condition of employment that a person engaged in the preparation or service of food or drink in a tavern, restaurant, hotel, motel or tourist resort be nude or partially nude while so engaged. ^{No employer to require nudity}

(2) In subsection 1, a person is partially nude when the person is dressed in such a manner that one or more parts of the body that are usually clothed in public are visibly exposed to public view. ^{Interpretation}

2. This Act comes into force on the day it receives Royal Assent. ^{Commence-ment}
3. The short title of this Act is *The Employment Standards Amendment Act, 1980*. ^{Short title}

BILL 110

An Act to amend
The Employment Standards Act, 1974

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

3
5
BILL 111

Government
Publications
Private Member's Bill

4TH SESSION, 31ST LEGISLATURE, ¹ONTARIO
29 ELIZABETH II, 1980 ²RECEIVED

An Act to amend The Labour Relations Act

MR. MACKENZIE

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to delete the exclusion from "employee" of persons who exercise managerial functions. The effect of the amendment is to permit these persons to join or establish an association or union for collective bargaining purposes.

BILL 111

1980

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *b* of subsection 3 of section 1 of *The Labour Relations Act*, s. 1 (3) (b), re-enacted being chapter 232 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

(b) who, in the opinion of the Board, is employed in a confidential capacity in matters relating to labour relations.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Labour Relations Amendment Act*, Short title 1980.

BILL 111

An Act to amend
The Labour Relations Act

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

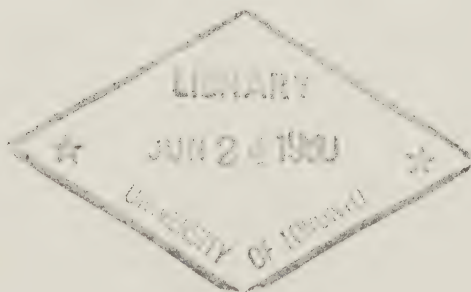
(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Legislative Assembly

An Act to amend The Employment Standards Act, 1974

MR. MACKENZIE



TORONTO

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EXPLANATORY NOTE

The purpose of the Bill is to extend the application of the whole Act to the Crown. Currently, Parts IX, X, XI and XII of the Act apply to the Crown.

BILL 112

1980

**An Act to amend
The Employment Standards Act, 1974**

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts as
follows:

1. Subsection 1 of section 2 of *The Employment Standards Act, 1974*, s. 2 (1),
re-enacted
being chapter 112, is repealed and the following substituted there-
for:

 - (1) This Act applies to the Crown, every agency thereof and any Application
of Act
board, commission, authority or corporation that exercises any
functions assigned or delegated to it by the Crown.
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Employment Standards Amendment* Short title
Act, 1980.

An Act to amend
The Employment Standards Act, 1974

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

BILL 113

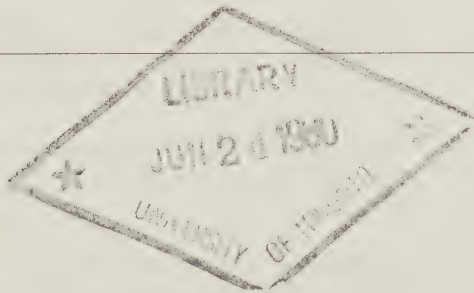
Private Member's Bill

4TH SESSION, 31ST LEGISLATURE, ^TONTARIO
29 ELIZABETH II, 1980

Legislative Assembly

An Act to amend The Labour Relations Act

MR. MACKENZIE



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to clarify the status of an employer before the Ontario Labour Relations Board on an application for certification by a trade union. The employer is permitted to present evidence and make submissions concerning several matters listed in the Bill. The employer is not permitted to present evidence or make submissions related to any other matter.

BILL 113

1980

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 9a,
enacted

9a. Upon an application for certification, an employer or employers' organization may present evidence and make submissions to the Board with respect to, Employers'
evidence in
certification
proceeding

- (a) the jurisdiction of the Board;
- (b) the appropriateness of the bargaining unit;
- (c) the status of employees of the employer, including whether or not a person is an employee, a dependant contractor or a security guard; and
- (d) the conduct of the employer, where another party made an allegation concerning the conduct of the employer,

but the Board shall not receive evidence or hear submissions from the employer or employers' organization with respect to any other matter.

2. Subsection 12 of section 91 of the said Act is amended by inserting after "but" in the second line "subject to section 9a". s. 91 (12),
amended
3. This Act comes into force on the day it receives Royal Assent. Commence-
ment
4. The short title of this Act is *The Labour Relations Amendment Act, 1980*. Short title

BILL 113

An Act to amend
The Labour Relations Act

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

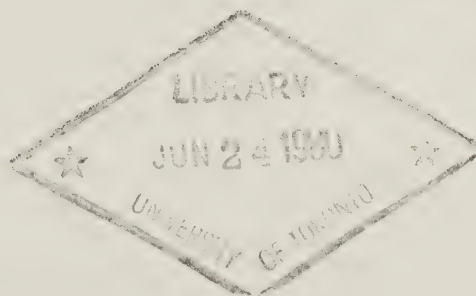
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4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

Legislative Assembly

An Act to amend
The Employment Standards Act, 1974

MR. MACKENZIE



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to require an employer to provide a leave of absence to any employee who has been elected to provincial or municipal office so that the employee may be able to carry out the duties of an elected official.

BILL 114

1980

An Act to amend The Employment Standards Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Employment Standards Act, 1974*, being chapter 112, is amended by adding thereto the following Part: Part XI-A
(ss. 39a-39d),
enacted

PART XI-A

ELECTED OFFICIAL LEAVE

39a. No employer shall terminate the employment of or lay-off an employee who is entitled to a leave of absence under this Part by reason of that employee being an elected official. Elected
official
leave

39b.—(1) An employee who has been elected to the Legislative Assembly or to a municipal public office and who has been employed by the employer for a period of three months preceding the date of the election shall be entitled upon application therefor to a leave of absence for the purpose of carrying out his duties as an elected official. When leave
to be taken

(2) A leave of absence under this Part may be for a continuous period consisting of the whole or a part of the term of office to which the person was elected or for such intermittent periods of time during the day or week as the employee may feel is necessary to fulfil his duties as an elected official. Duration
of leave

(3) Where a leave of absence is for a continuous period, the employee shall give the employer two weeks notice in writing of the day upon which the employee intends to commence the leave and shall set out in this notice the estimated duration of the leave. Notice

Idem

(4) Where a leave of absence is for intermittent periods, the employee shall give to the employer notice in writing prior to commencing the leave of regular periods of time during the day or week that the employee intends to be on leave, but the employee is entitled to a leave of absence at other times where such leave is necessary for the employee to fulfil his duties as an elected official.

Preservation
of seniority

39c.—(1) An employee who intends to resume full-time employment upon ceasing to be an elected official shall so advise the employer, and, upon returning to work, the employer shall reinstate or continue the employee in his position or provide alternative work of a comparable nature at not less than the wages of the employee at the time the leave of absence began and without loss of seniority or benefits accrued to the expiration of the term of office other than seniority or benefits accrued during the times that the employee was on leave.

Idem

(2) Where the employer has suspended or discontinued operations during the leave of absence of the employee and has not resumed operations upon the expiry thereof, the employer shall, upon resumption of operations, reinstate the employee to his employment or to alternate work in accordance with an established seniority system or practice of the employer in existence at the time the leave of absence began with no loss of seniority or benefits accrued to the commencement of the leave of absence, and in the absence of such a system or practice shall reinstate the employee in accordance with subsection 1.

Employment
standards
officer
may make
order

39d. Where an employer fails to comply with the provisions of this Part, an employment standards officer may order what action, if any, the employer shall take or what he shall refrain from doing in order to constitute compliance with this Part and may order what compensation shall be paid by the employer to the Director, in trust, for the employee.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is *The Employment Standards Amendment Act, 1980*.

BILL 114

An Act to amend
The Employment Standards
Act, 1974

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

